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the recommendation of the Council, for special services to the Association.

10. Such Members, not exceeding twelve, as shall be annually nominated by the Council, on the recommendation of the Executive Committee.

XII. The Executive Committee consists of the President of Council, the General Secretary, the Treasurer, the Foreign Secretary, one Secretary from each Department nominated by the Council, and Twelve Members elected annually by the Council.

XIII. The Council meets at the time of the Annual Meeting of the Association, at three other times during the year, and also when specially summoned by the Executive Committee.

Annual and other Meetings.

XIV. An Annual Meeting for the reception of the Address of the President, and of the Reports of the Council and Standing Committees, and for the reading and discussion of Papers, is held in such place, and at such time, as may be appointed by the Council.

XV. A Business Meeting of the Members is held in each year at the office of the Association, at such time as may be appointed by the Council, to receive a Report from the Council on the financial and other business of the Association, to elect the Officers and Standing Committees for the ensuing year, and to enact such Laws as may from time to time be required.

XVI. The Council has the power of summoning a General Meeting of Members, on fourteen days' notice, for such purpose, and at such time and place, as it thinks fit.

XVII. The General Secretary, on receiving a requisition signed by twenty Members, summons, at such time, being within thirty days, and at such place as he thinks fit, a General Meeting of the Members, for the purposes stated in such requisition.

XVIII. Special Meetings are held in London, under the regulation of the Executive Committee, for reading Papers, and for discussion, on specific questions.

Rights and Privileges of Members.

XIX. Every Ordinary Member has the right of attending and voting at the Annual Meeting, the Business Meeting of Members, and all other General Meetings of the Association, of being eligible to any of its offices, and of receiving gratuitously its *Transactions*.

XX. Any Ordinary Member, whose name has been submitted for that purpose to, and approved by, the Executive Committee, and who pays an additional annual subscription of One Guinea, or an additional life subscription of Ten Guineas, has the privileges of attending and voting at the Special Meetings mentioned in Law XVIII., of receiving all publications issued in connection with such Meetings, and of using the Library at the office of the Association.

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XXI. Every Corporate Member receives gratuitously a copy of the *Transactions*, and may nominate two Representatives to attend the Meetings of the Association.

XXII. Every Foreign Corresponding Member has all the rights of an Ordinary Member, except that of eligibility to the Council.

XXIII. Every Associate has the right of attending and voting at the Annual Meeting, held by Law XIV.

Standing and other Committees.

XXIV. A Standing Committee for each Department is annually elected at the Business Meeting of Members. A Standing Committee has the power to appoint Sub-committees.

XXV. Special Committees are appointed by the Association or by the Council, to consider and report on specific subjects of reference.

XXVI. The President of Council is, *ex officio*, a Member of every Standing Committee, and the General Secretary and the Foreign Secretary are, *ex officio*, Members of every Committee and Sub-committee. The Secretary of each Department is, *ex officio*, a Member of every Committee and Sub-committee of such Department.

Constitution and Conduct of Meetings.

XXVII. For General Meetings of the Association twenty Members, for Meetings of the Council seven Members, for those of the Executive Committee five Members, and for those of other Committees and Sub-committees three Members, form a quorum.

XXVIII. At all the aforesaid Meetings the Chairman has a vote; if the votes be equal he has also a casting vote.

XXIX. No original motion, of which previous notice has not been given, is put from the Chair at any Meeting of the Association held under Laws XIV., XV., or XVI.

Finances.

XXX. The funds of the Association are kept in its name at a Bank. All sums received on account of the Association are paid into the Bank; and all cheques on the Bank are drawn by order of the Council or of the Executive Committee, signed by the Treasurer, and countersigned by the Assistant Secretary.

XXXI. At the Business Meeting of Members two Auditors, not being Members of the Executive Committee, are appointed on motion, by show of hands, to audit the accounts of the ensuing year.

XXXII. The accounts of the Association are made up to the end of June in each year; and, after being duly audited, are appended to the Annual Report of the Council.

Vacancies in Offices.

XXXIII. The Council fills up any vacancy occurring during the year in any of the offices named in Law IX., or in any other office of the Association.

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RECEIPT AND PAYMENT ACCOUNT FOR THE YEAR ENDING JUNE 30, 1880.

1879.	RECEIPTS.			£	s.	d.
July 1.	To Balances:					
	London and Westminster Bank:					
	Deposit Account	£100	0 0			
	Current do.	44	12 11			
	Ransom & Co.	10	10 0			
	Petty Cash	0	7 8			
				155	10	7
1880.						
June 30.	„ Subscriptions received at Office	432	9 0			
	„ „ „ Bankers	307	12 0			
	„ Life Payment	10	10 0			
				750	11	0
	„ Manchester Congress Sale of Tickets ...			359	18	6
	„ *Transactions* and Publications sold ...			20	15	2
	„ Use of Rooms for Meetings			18	18	0
	„ Interest on Deposit			1	0	1
				£1,306	13	4

1880.	PAYMENTS.				£	s.	d.
June 30.	By Printing:—*Sessional Proceedings* ...	£57	5 3				
	„ „ General Account ...	111	2 6				
					168	7	9
	„ Rent and Gas				235	6	9
	„ Salary and Wages				293	3	11
	„ Office Expenses				75	7	2
	„ Library—Books, Bookbinding, &c. ...				20	7	6
	„ Parliamentary Papers				12	18	9
	„ Stationery				29	17	11
	„ Postage				60	10	7
	„ Travelling Expenses				59	13	0
	„ Reporting Proceedings				77	17	0
	„ Advertising Meetings				1	14	6
	„ Commission on Advertisements... ...				12	16	9
	„ Hire of Rooms				4	14	6
	„ Subscriptions Returned				4	4	0
	„ Balances:—						
	London and Westminster Bank:—						
	Deposit Account ...	100	0 0				
	Current do. ...	78	6 11				
	Ransom & Co. ...	69	6 0				
	Cash at Office ...	2	0 4				
					249	13	3
					£1,306	13	4

Examined and found correct—

July 13th, 1880.

A. EDGAR,
ROBERT WHITE, } AUDITORS.

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INTRODUCTION.

THE Twenty-fourth Annual Congress was held at Edinburgh, where, in the year 1863, under the presidency of the late Lord Brougham, the Association met with one of its most brilliant receptions. The proceedings on the present occasion were opened on Wednesday, October 5, with a Service in St. Giles's Cathedral, when a Sermon was preached before the Members of the Association by the Rev. J. Cameron Lees, D.D. On the evening of the same day the Inaugural Address of the President, Lord Reay, was delivered in the Free Church Assembly Hall. In consequence of the unavoidable absence of the President of the past year, the Bishop of Manchester, his successor to the Chair was introduced by the President of the Council, Mr. Hastings, M.P., who acknowledged, in very cordial terms on behalf of the Council, the services to the last Congress which the Bishop had so ably and so heartily rendered. A vote of thanks to Lord Reay for his Address was moved by the Lord Provost and seconded by the Earl of Minto, and carried by acclamation.

The Addresses of the Presidents of Departments, and of the President of the Council, were delivered as usual on Thursday morning and the following mornings in the same Hall, after which the sectional business was proceeded with in the different places assigned to the Departments. The meetings of the Jurisprudence and Health Departments were held in the Parliament House; and here also was the Reception Room. The Education Department met in the County Hall; the

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Economy and Trade Department sat in the Hall of the Chamber of Commerce; while the gatherings of the Art Department were provided for in the General Assembly Hall.

On the evening of Tuesday, October the 12th, a Working Men's Meeting was held in the Free Church Assembly Hall, under the presidency of Lord Reay. In opening the proceedings he gave expression to a feeling of regret that representatives of the workmen had not had a place in their Congress. What could be of greater importance, he asked, than the art of living? That the community had made progress in it was a thing nobody would be inclined to deny. Nothing proved this more clearly than the extraordinary number of societies all combating some special enormity in their social system. These efforts were generous; but he hoped they would agree with him that there ought not to be one-sidedness. A healthy organism was required. They heard a great deal about the terrible consequences of intemperance. Now, he was fully alive to the results of this evil, and he did not forget that it was not so long ago that the higher classes of this country were addicted to this propensity. But how did the higher classes grapple with the evil? It was by altering their mode of life. He was delighted to think that there were so many both in Scotland and England who laid themselves out to protest against this social evil, but if they were to cope with it in an efficient way, if they were to eradicate the evil, it would be by improving the conditions of life under which they lived. The use of stimulants was a result of bad education, of bad ventilation, of the artistic sympathies lying dormant, and of being ignorant of the best means of amusement. He did not wish for one moment to preach special doctrines for any special class; what he was saying concerned the whole community. He took it for granted that good recreation increased their power for good work. If good music, good novels, good museums, good picture galleries, good songs, not to mention cricket, curling, and football, were excellent amusements for

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one class, they ought not to be out of the reach of other classes. As to music, he hoped to see the day when no village would be without its band and its choral union. As to museums and picture galleries, they ought to be accessible to workmen in the evening, with competent persons to explain what was worth observing. Referring, in conclusion, to technical education for workmen, and to the necessity of attending to the educational wants of those whose skilful handicraft must preserve the ascendency of British workmanship, he spoke in high terms of the Watt Institute. In the matter of political economy, he believed the working classes were not prepared to depart from the principles of the Manchester School, as laid down by Cobden and his friends. Individual responsibility could not be weakened with impunity. The working classes of Scotland did not ask for any favour or patronage. They were Scotchmen, and, like other Scotchmen, they did not require relief of any kind. They trusted to their own thrift and energy, and felt strong enough to guard their own interests.

Lord Balfour of Burleigh said he shared to the full the regret Lord Reay had expressed that so few representatives of the working classes could be present at the discussions which took place in the different Departments of the Congress, because he knew well that the questions there discussed had no particular relations to any one class in society. In the Education Section, as the President of which he was called upon to speak, they had had a number of interesting subjects before them. On the first day of their meeting they had some most interesting Papers on the subject of educational overwork. Some of the speakers seemed to think that overwork was doing very great harm among the rising generation; while others again were inclined to think that it was only amongst the weaker and less-qualified children that this training was telling most severely. It was said by some speakers that the teachers in the schools were greatly to blame if the

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children under their charge were over-worked; but he was rather inclined to the view that the responsibility for guarding children against over-work must lie upon the parents or guardians of the children; and an appeal he wished to make was this, that all those who had children at school should watch over them more particularly than he had reason to believe they sometimes did. Parents were, he thought, rather too apt to think that when their children were at school a great deal of the responsibility was taken off their shoulders. He need not speak to an audience of Edinburgh working men of the advantages of education. To do so, he knew, would be entirely out of place; but there was one Paper which had been read in the course of the sittings which he thought might be studied with great advantage by many in Scotland. He had no doubt that many present were familiar, in its main outlines, with the movement which had been going on in England for the establishment of clubs for working men, and in the Paper he was alluding to it was said that, although there were nearly a thousand clubs throughout England, those in Scotland might yet be counted by tens. It seemed to him, he confessed, that in Scotland working men lost a great deal by not having joined this movement; and though he knew that in some respects their habits were different from those of their neighbours in the south, still it seemed to him that if the attention of their Scotch working classes were more directed to the great good that was being done, more especially in the large towns of England, they might hope to reap some of the benefits of the system. There was, in his opinion, no better means of establishing a healthy public opinion among any class than that they should join together and meet together in the hours devoted to social amusement, and this could, he believed, be better done through the machinery of clubs than in any other way.

Baron von Holtzendorff wished to express his heartfelt sympathies for the Scotch workmen and for the Scotch

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labourer. Scotch workmen and Scotch labourers had at all times been held in high esteem in Germany. The Germans believed that the Scotch working people were participating, to a certain extent, in those verities of high intelligence from which there had arisen the first system of political economy written by Adam Smith. He believed that such a people, by their natural qualities, must be prominent in practical economy. He believed that in this rather rough climate workmen could not become effeminate. He believed that in this somewhat cloudy atmosphere the workmen were still far-sighted: that they were looking further on than those who, on the Continent, were engaging in cloudy schemes of international socialism. As to himself, he confessed, as a Professor of Jurisprudence, that he belonged to a school in Germany which had been styled the professorial school, the academical school, the university school; and for a certain reason—that professors, in respect to the strife between capital and labour, had their sympathies in favour of the workmen; because they felt that from the poorer class, and from the working class, there were more intelligent men coming up to science than from the capitalist class were coming down. But for a Professor of Jurisprudence it would certainly be a very bad thing to speak from sympathy before such an audience. Sympathy and love were only matters of marriage, not of politics. They must speak from sound reasoning. Turning, then, from sympathy and love to reasoning, he remarked that there were three great powers in the present day—Science, Capital, and Labour. Now, if he asked the workmen, when they felt any antagonistic sentiments to capital, could they destroy capital, would they destroy capital? Then he had to say, perhaps they could, but, under one condition, like that of the Greek soldier who, in the war with the Turks, put himself into the cask of powder and was blown up with his enemies. On the same condition it might be possible to destroy this great power of capital. But for every reasonable

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wish for future development he should say their scientific ideas were these—that the greatest demand of civilisation, as a security for future times, was that there should be brought about a close and friendly alliance between those three great powers—Science, Capital, and Labour.

Sir Ughtred J. Kay-Shuttleworth, Bart., referred to the work of the Economy and Trade Department. Political economy, he said, was, of course, a science, and the work of the Department was scientific, but it was distinctly practical also, and had a direct and special interest for those who lived by manual labour. For instance, among the subjects they had been discussing was the question of the freedom of trade, the perfecting of that system of free-trade of which they all boasted, but in which they all knew they were still far from having attained perfection. Then, there were the questions of the Poor Laws, or of substitutes for the Poor Laws; of taxation, imperial and local, than which none more directly or specially concerned the working man. Further, they had been discussing the question of railway accidents, and how to diminish that terrible mortality which unfortunately existed among those employed upon our railways. They had also discussed the great question of remedies for excess in drink. Referring to the relations between capital and labour, he remarked that they in Scotland had happily had comparatively few strikes. There were two points about those wars between labour and capital as to which he wished to speak. There was a system amongst the working men of Lancashire of letting things come to a terrible pass between themselves and their masters and then submitting to a mass meeting of operatives the question of strike or not strike, with the result that the young men and women had a greater say in that question than the older and possibly the wiser heads. Surely it would be much better if a committee were elected to consider the question in the first instance. If that were done, the outbreak of war would be less frequent. Another point was that at an earlier stage in these matters the commit-

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tees of masters and employed, instead of sitting in secret conclave and apart, and only finally advancing towards each other in a tone of 'stand and deliver'—should meet constantly, and not merely at a moment when things had got to such a pitch that conciliation was almost impossible. They all admitted that mediation was desirable between nations, and if so, still more must it be desirable when the question was not between two different countries, but between two powers—Capital and Labour—whose interests were not hostile to each other, but were identical and inseparable.

Mr. James A. Campbell, M.P., asked the meeting to consider the common interest which all classes of the people had in the subjects with which the Social Science Association had to do. As there was a common interest in the work of the Association, so also there was a common duty of co-operating in promoting it. Even if they could not give direct assistance in the discussion of the subjects with which the Association dealt, they all might read and reflect upon them as they had opportunity. By encouraging a spirit of thoughtful observation, not only in themselves, but also in their associates, they should all be doing what they could to co-operate with the scientific investigator. As to the spirit in which they should study those subjects, it should not be with a view to any advantage to themselves, but for the good of society. One subject on which working men were especially qualified to give valuable assistance was that of technical education. There was a general conviction that the training of our artisans was defective. There was a difficulty in determining how best to introduce appliances for technical teaching, and in such a difficulty, who could give better assistance than those who could speak from experience? It was not only, however, for the sake of such practical assistance that these inquiries of Social Science were to be commended to the attention of working men; it was also because such inquiries tended to promote their general intelligence and culture.

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Professor Pierson thought they would expect him to tell them something about the workmen in Holland, and the questions agitating them, and those who took an interest in them. The great question in that country was how to educate young people in such a manner that they should not belong to the surplus population—that part which consumed more than it produced—but to that part which was absolutely necessary to the welfare of the community—that part which produced more than it consumed. A subject that had been much talked about in Holland was that of apprentices. Now-a-days, they had such vast establishments that when a boy was sent to a workshop he had to do all sorts of things and only learned a small part of his trade. And in five or six years the boy would be a man, and would be good for nothing. They did not know exactly in Holland what they should do with their apprentices. All sorts of remedies had been proposed. In Germany there was a law, according to which the master was obliged to teach his apprentices every part of their trade, while the apprentice was of course bound to do certain things for his master. Of course there were always some people in favour of State interference, and others, again, said this was a question for the workmen themselves. Another question that they were talking about in Holland was that of the dwellings of the poor. All sorts of plans had been started for improving workmen's dwellings, and philanthropic societies had been formed with that object. But these means were thought too slow, and they wanted to get on a little more quickly. The speaker went on to explain a system of which he, among others, was in favour —that of limited companies supplied with capital and building ground by the local government. Another matter which had been engaging attention was that of the laws relating to the employment of children. Up to 1874 there was no law in Holland on this subject. One which was then introduced, however, prohibited the employment in any workshop of children below the age of twelve. But that law was not com-

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plete. It did not legislate for agricultural labour, and now the Government was going to improve that law. He thought, however, the Government could not do all; much should be done by the people themselves.

Mr. Hastings, M.P., referred to certain proceedings of the Congress to show how their discussions affected the interests of working men. Public health, he said, was in itself no doubt important to every human being; but he ventured to say it was above all things important to working men. In the case of the man of inherited wealth, it was no doubt desirable for his own sake, and for the sake of his family, that he should have good health; but supposing that under the dispensation of Providence he was stricken down in the midst of his life and enjoyment, he was certain to have a great deal to mitigate the evil, and to console him in his affliction. But if the working man was stricken down by ill-health owing to bad drainage, to infectious disease being allowed to spread, or to other mal-arrangements, it meant to him the deepest anxiety for himself, for his wife, and for his children; it meant the loss of employment and the failure of wages; it meant that he might be deprived for the rest of his life of the means to maintain his independence. Then, so far as public education was concerned, the working man had a far deeper and more personal interest in the question than others might have, because here, again, while the man of large inherited wealth had a great deal of choice as to education for his children, the working man was tied down to one spot, and to the nearest elementary school. This, he submitted, gave the working men the deepest interest in being sure that the State, whether the general government or the local government—he for his part preferred local government in all these things—in some way provided in every locality, within the fair reach of every working man, all the education that it was necessary his children should have. The same argument applied to every section of the Congress in precisely the same way; and having said that, he might next

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point out how deeply interested the working classes were that the government, whether general or local, in whatever branch of administration it might take up, should be pure and efficient and good. He was as keen a partisan as any man when in the House of Commons; but when he left the House of Commons he left the spirit of partisanship behind him, and when he came to a meeting such as the present he cared not what the politics of any man he met there might be; if a man desired—and many of the members of both parties did desire—the good of the nation at large, he was willing to work with him without reference to party politics. He was, however, about to deal for a minute with a question which, though not a party one, was no doubt political. They could not have good government if they had not pure government, and the free representative institutions which had come down in this country through untold centuries, and were the greatest heritage the people of this country had from their forefathers, could never exist in perpetuity if corruption was to be their basis. If the fountains of political life were to be poisoned at their source, there was, and there could be, no security that the freedom they enjoyed would be handed down to their posterity. He wanted to know what working men thought of the facts that had been brought to light of late by the Election Commissioners in England. No one could accuse him of party bias, for, if there was one thing more clear than another brought out by the Commissioners, it was that Liberals were at least as bad as Conservatives. Let them consider what this meant. What security could any of them have that their public affairs, either local or general, would be uprightly administered, when the men who administered them simply bought their way to the posts they occupied? He remembered, many years ago, seeing an old caricature, published in London at the close of last century, in which it was imputed, quite untruly he believed, that an eminent statesman of that day had made a corrupt bargain with the Crown, and in which this statesman

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was depicted turning into Covent Garden with a wheelbarrow, in which was deposited his most sacred majesty George the Third, in his coronation robes, with his crown on his head and his sceptre in his hand, and with the words beneath—'What a man buys he may sell.' He thought the electors of this country ought seriously to consider, alike in reference to imperial and to local government, whether those who bought the people were not likely to sell them. He appealed to the people not to let these things continue. He did not believe much in legislation, though legislation could do something; but he did believe in public opinion upon this matter. If throughout Great Britain the loud voice of that public opinion which was never heard in vain should demand that every one, whoever he might be, and wherever he might be placed, who had dealt with this corruption should be brought to justice, and that the stamp of their iniquity should be placed upon all who tampered with the consciences and the independence of the people, then he ventured to say that the abominable system which was eating as a canker into the liberties of the country would cease, just as the crime of duelling, which was rampant fifty years ago, ceased at once when public opinion declared against it.

The Hon. Arthur Elliott, M.P., said all decent and honest men must have read, within the last few days, with shame and indignation, the accounts that had been given of the state of the electorate in the south of England. But he was inclined himself to look for some consolation in this fact, that the constituencies where this corruption was most rife were constituencies of the past. The places where it had been dragged into light were not places like Liverpool, or Preston or Newcastle, or Glasgow, or Edinburgh, which were the cities of the present. The others were great cities and famous cities, but, after all, they were not the kind of centres upon which the strength of the country rested at the present day. He was proud to think that from this great curse of corruption Scotland was almost entirely free, and they might

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well comfort themselves with the reflection that the constituencies of the future—such as would direct the policy of the country and care for its interests—were not those where this curse was most rife. They had had, he went on to say, most interesting questions put before them; but of all the questions they had yet heard, he thought the question, 'Why is one here at all?' a most formidable one. It was very difficult to answer that question. But he felt seriously about it. If a man was of no use in one position it was entirely his own fault if he did not make himself of use somewhere else, and if there was an excess of population in one parish, his business was to go into the next. But he did not believe that the world was too full of active working people. He thoroughly believed that the more hard-working, energetic people there were in the world the better for the world. He fully believed that in some parts, here and there, there might be too many of them; but if there was an active and energetic man who did not find out that he could be of use somewhere, he thought it was because he did not look enough about him. Proceeding to speak of the criminal law, he would ask them to consider the paper which the Lord Advocate delivered last week, for he (the speaker) was sure that everybody who had at heart the reform of the criminal law must have thought that such reform would be considerably advanced by that admirable paper. The hon. gentleman also made some remarks on the relation of the Art Section to the people, and said that discussions as to how they might best use their time, and most rationally enjoy their holidays, were of use.

The Rev. S. A. Steinthal said he had attended a very considerable number of these annual Congresses, and he never remembered one where it seemed to him that more practical good was done than had been effected on this occasion in his Section. Referring to the electoral corruption of which Mr. Hastings and Mr. Elliott had spoken, he said it was a very curious fact that, whenever they had to deal with a corrupt

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constituency, there was always something about the public-house. And they had never yet had to deal with any form of vice or iniquity but, somehow or other, either as the cause or consequence, or the associated influence round about it, the public-house would continually keep cropping up. He agreed very much with those who wished they had the power of controlling these public-houses.

Sir George Campbell, K.C.S.I., M.P., said he was one of those who thought that a somewhat unjust ridicule had been thrown on the Association. There was a day when very great men indeed supported that Association, and up to the present time it had held its own; and he was sanguine that the men of Edinburgh would consider that its present meeting had not caused it to fall, in their opinion, from the high estate it had hitherto held. He was, besides, one of those who believed that the Imperial Parliament was at present overloaded; and it seemed to him that an Association of this kind, which often prepared in a way the work of Parliament, and reduced great questions to a state of pulp, in which they might be more easily digested by Parliament, did a great duty to the State and to this great Empire. In this useful work they were assisted by many eminent men, and even those who might have laid themselves open to the charge of being ventilators of crotchets did a great service in exciting and stimulating thought, and leading it into new channels.

Dr. Farquharson, M.P., said the only point on which he should venture to say a word was in connection with the Department of Public Health. He thought that of all people in the world medical men had most right to say a word on that subject, because they of all professions in the world were in the habit of picking their own pockets by preventing disease, which was the very fruit on which they lived. He could not conceive of anything more disinterested than the action of a medical man who, when called into a house or large public establishment, and finding there the seeds of an epidemic of measles or fever, took

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all necessary steps for stamping it out at once, and thereby preventing a large profit to himself. He referred to the importance of those present endeavouring to carry out what were now being established throughout England—provident dispensaries, by which working men were enabled, by payment of a certain sum yearly, to get medicine and attendance throughout the year. Having next alluded to the necessity of people attending, as far as possible, to good air and good food, properly cooked, avoiding worry of mind, over-exertion, and depression of spirits, the hon. gentleman referred to the condition of the public health, which was, he said, a scandal to the country. There were a great number of diseases which ought never to appear in our midst at all—typhus fever, typhoid fever, diphtheria, and diseases of that sort which depended on bad drainage and bad hygiene.

A vote of thanks to the speakers was proposed by Mr. Thom, Chairman of the Trades' Council, who took occasion to remark that workmen did not strike for the love of striking, and that efforts had been made in the direction of forming boards of conciliation. A similar compliment, proposed by Mr. Garston (Chairman of the Workmen's Institute), was heartily accorded to Lord Reay for his kindness in presiding, in the unavoidable absence of the Lord Provost.

On Thursday, the 7th October, a reception promenade was given by the Board of Manufactures at the National Gallery, where, at the same time, an exhibition of paintings of the Scottish school, by the Royal Scottish Academy, was opened. On Friday afternoon a reception promenade was given in the Royal Botanic Gardens by the Senatus of the University; and on Monday evening the Lord Provost, magistrates, and Council received the members and associates at a *conversazione* in the Museum of Science and Art.

The concluding general meeting was held on Wednesday, October the 13th, when a Report from the Council of the

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Association, containing also the detailed reports from the Departments, was submitted.[1]

Resolutions adopted in discussions following the reading of Papers were passed in all the Departments. Most of these were referred by the Council at their November meeting to the standing committees.

A few months only having elapsed since the appearance of the last volume, the issue of which had been unavoidably delayed, the committees have not hitherto had occasion to meet often. They are, however, actively engaged in considering the recommendations adopted at the Edinburgh Congress, and Reports will in due course be presented to the Council.

An important meeting of the International and Municipal Law Sections of the Jurisprudence Department to consider the question of Copyright was held on the 3rd of December last, when there were also present, by invitation, Mr. George Bell, Mr. T. H. Bolton (representing the Dramatic Authors' Society), Mr. F. W. Chesson, and Mr. Leybourn Goddard (who acted as Secretary to the Royal Commission on Copyright, appointed in 1878). Mr. Hastings, M.P., having been voted to the chair, explained the reasons which had induced him, at the close of the last Session of Parliament, to give notice of his intention to introduce in the present Session an amended Bill dealing with the whole subject of Home and Colonial Copyright. The Committee then proceeded to consider generally the dropped Bill of Lord John Manners of 1879, and the concurrence of opinion being in favour of the drafting of an entirely new measure, the Committee adopted, as a first principle, a resolution affirming that the term of copyright should be for 'fifty years from date of registration.' They then appointed a Sub-Committee, consisting of Mr. Westlake, Q.C., Mr. W. C. Fooks, Jun., and Mr. Leybourn Goddard, to consider the best means to be adopted for the preparation of the new Bill. Five meetings of this Sub-

[1] See Appendix A.

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Committee were held, and the principles on which it is suggested the proposed Bill should be drawn were affirmed. These are mainly taken from the recommendations adopted by the Royal Commissioners. The Sub-Committee were aided in their deliberations by the presence of the Hon. F. S. A. Hanbury-Tracy, M.P., Messrs. Bolton and Mote (representing the Dramatic Authors' Society), and Mr. Basil Field (the art solicitor to the Royal Academy). Their valuable support and assistance deserve, as they received, the hearty acknowledgment of the Council. To Mr. Leybourn Goddard we are much indebted for the able and lucid manner in which he laid before the Sub-Committee the various recommendations of the Royal Commissioners. It is felt that the adoption of these recommendations, arrived at after protracted and arduous labours, will in itself be an argument that may be very properly and strongly advanced in the House of Commons in support of the Bill. The Report of the Sub-Committee, which has been adopted by the Standing Committee of the Department and presented to the Council, will be found in the Appendices to this volume.[1] The Council have voted a grant of twenty guineas to a fund to be raised for the purpose of defraying the costs of drafting and promoting a Bill in accordance with this report; and it is hoped that by the response to an appeal put forth they may be enabled to secure the passing of a comprehensive and intelligent Bill, which shall receive the hearty support of those most nearly interested.

A Paper by Mr. C. B. B. M'Laren, M.P., 'On the Married Women's Property Bill, 1881,' was read at the rooms of the Association on Saturday, January the 22nd. The meeting took place, by way of experiment, in the afternoon of that day, in order that Members of Parliament interested in the question might have an opportunity of being present. The chair was occupied by Mr. Hinde Palmer, Q.C., M.P., and a resolution approving of the principles of the Bill,

[1] See Appendix B.

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which has now been referred to a Select Committee of the House of Commons, was, after an animated discussion, warmly supported.

The Council have received, with great regret, the resignation by the Rev. Brooke Lambert, in consequence of increasing occupation, of the Honorary Secretaryship of the Education Department, which he had held for a period of fourteen years. The Council have conveyed to Mr. Lambert a hearty expression of their deep acknowledgment of his zealous and long-continued services.

As it has occasionally been found difficult efficiently to conduct at the Congresses and elsewhere the administrative business of the Jurisprudence Department, which is divided into three Sections, but has only two honorary officers, the Council have decided to make a third appointment in the secretariat of that Department. Mr. William Lawson, barrister-at-law, and one of our recently enrolled members, has accepted the office, his appointment to which, in view of our meeting at Dublin, where he is well known, will, we are sure, be received with a general feeling of pleasure and satisfaction.

In order to facilitate the arrangements for an early issue of the annual volume of the *Transactions* of the Association, the Council have adopted a series of regulations which will, it is hoped, not only produce the desired result, but will also tend to relieve a pressure which, without some clearly defined method, is liable to disorganise the final arrangements for the reception of Papers before the Congresses. A copy of the regulations will be found at the end of the volume.[1]

The lease of the premises occupied by the Association, expiring in March, has been renewed on the existing terms for a period of sixteen years, with power reserved, however, to determine the same on March 25, 1888.

The Council having requested Mr. C. H. E. Carmichael to represent the Association at the International Congress of

[1] See Appendix D.

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Commerce and Industry, held at Brussels in September last, a report of his visit, with some notes on the Italian Juridical Congress held at Turin at the same time, will be found in the Appendices at the end of this volume.[1]

The Council have to record with regret the loss of the following members of the Association since the issue of the last volume of the *Transactions*:—The Earl of Kintore; Lord Chief Baron Kelly; Count J. Arrivabene; Sir Francis Lycett; Sir R. Graves Macdonald, C.B., K.C.M.G.; Professor W. B. Hodgson, LL.D.; James Cadbury; and M. H. Marsh. Count Arrivabene, who was for many years one of our foreign corresponding members, died at Mantua in his 93rd year. Professor Hodgson, who had often rendered valuable services to the Association, expired suddenly in August last when attending the Brussels Congress on Education.

A statement of accounts for the financial year ending June 1880 is annexed, showing a balance in favour of the Association of £249 13*s.* 3*d.* There were then no outstanding liabilities.

During the recent meeting at Edinburgh, a communication was received from the Town Clerk of Dublin, on behalf of the Municipal Council of the City, inviting the Association to hold its Congress in that City in the present year. A letter was also received at the same time from the President and Secretaries of the Statistical and Social Inquiry Society of Ireland, joining with the Municipal Council of Dublin in their invitation. At the meeting of the Council of the Association at Edinburgh on October the 13th, it was unanimously resolved heartily to accept the invitation.

It remains only to add, in conclusion, that the present volume has been edited by a Committee consisting of the President of the Council, the Honorary Secretaries of Departments, and the Assistant Secretary.

J. L. CLIFFORD-SMITH,
Assistant Secretary.

February, 1881.

[1] See Appendix C.

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Sermon

PREACHED BEFORE THE ASSOCIATION

IN

ST. GILES'S CATHEDRAL, EDINBURGH,

ON WEDNESDAY, OCTOBER 6, 1880,

BY THE REV. J. CAMERON LEES, D.D.

We are labourers together with God.—1 COR. iii. 9.

THESE words give us a grand conception of God and of the possibilities of humanity. They are the expression of Christian optimism. This world is not given over to evil. God is labouring, working in it and for it, brooding over its history, and, amid all its changes and convulsions, carrying out His own plan, 'writing straight in crooked lines,' causing 'all things to work together for good.' Amid discordant voices and shrieks of suffering, Christian faith

> Seems to hear a heavenly Friend,
> And through thick veils to apprehend
> A labour working to an end.

And it is possible for man to work with God, to throw his power in the same line with the Divine power. All who are striving for the regeneration and uplifting of man, who are working in the same direction in which God is working, casting their whole force in with that which makes for righteousness, and brings in an everlasting kingdom, are 'labourers together with God.' Such a thought gives dignity to the feeblest effort and glorifies the humblest service.

Here, to-day, let us catch the spirit of these words, which may well be adopted as the key-note of this week's gathering and work.

1. We must take the text in its widest and fullest sense.

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When the disciples of Christ saw one casting out devils in His name they forbade him, because he companied not with them. The exclusive spirit they displayed has been prevalent in all ages—the desire to limit God's workmen to men of special classes, orders, aptitudes, clothed in particular uniforms, working with particular implements. But in the great building which God is carrying up there are many labourers. Some quarrying the stones, some laboriously hewing them, some fitting them into their places, some making them glorious with the grace of sculpture. As the wind, which bloweth where it listeth, bloweth in a thousand ways, so in a thousand ways the Divine Spirit reaches the heart of man, making his hands quick unto good; and according to the gift that is in him, and the opportunity given him, raising him to be a labourer with God.

Perhaps, for instance—to take an illustration from the gathering of to-day—the preacher of the Gospel, filled with a deep sense of the importance of his mission, is ready to undervalue and even ignore the efforts of those whose methods are not specially ecclesiastical, or avowedly spiritual in their aim, and who are addressing themselves chiefly to the physical and social well-being of man; yet are not such in truth worthy of recognition as his fellow-labourers, seeking in the same spirit that has touched his own heart to exorcise some of the worst devils that prey upon humanity? Are not their exertions almost absolutely needed to make successful his own? For how is the Christian minister to lead men to look up to God as their Father, when their only ideas of Fatherhood have been of the most degrading kind? How is he to get them to shun temptation when the conditions of their life are one continued temptation? How almost hopeless to speak of purity to those whose hourly surroundings are foul and unchaste, or of temperance to those living in a vitiated atmosphere, that causes an almost irresistible craving for stimulants!

On the other hand, those who are taken up with the amelioration of the social condition of man may be equally apt to regard their work as the all-important work. Give men fresh air and good houses to live in, place the means of intellectual culture within their reach, surround them with the beautiful in art, and you do all for them that is needed to be done. But there are wants that these things cannot satisfy. Culture is not sufficient. 'You taught me language,' says the monster Caliban, 'and my profit on't is, I know how to curse.' There are sorrows for which culture cannot prove an anodyne. There is a sense of sin that can only be met by the Gospel of the Cross, and a despairing look at death that can only be dis-

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pelled by the message of immortality. There must be, then, a generous recognition of the 'diversity of gifts.' 'The eye cannot say to the hand I have no need of thee; nor again the head to the feet, I have no need of thee.' All who are working for the regeneration of man are of the same great company, 'labourers together with God.'

> Doing good and being good
> Are labouring, Lord, with Thee;
> Charity is gratitude,
> And piety best understood
> Is sweet humanity.

2. The text indicates what is the strength and motive of all true work. It is 'begun, continued, and ended in God.' It is 'labour with Him.' The true attitude of man, it has been beautifully said, consists in 'lifting up and looking up.' They can best lift up who look up; and who, like the brave workers in past ages, 'endure, as seeing Him who is invisible.' It is a characteristic of our time that there has been an attempt to root philanthropy in man rather than in God. 'Let God alone,' it has been said, 'and let us do our duty by man. Be helpful, and generous, and charitable, self-sacrificing, and kind.' We know how this creed has been set forth with all the grace that prose or poetry can take, and has been held by some who have shed their very heart's blood for others, whom Jesus would have loved; good Samaritans, giving freely of their oil and wine to heal the bleeding wounds of humanity. Many of us have read the life of that remarkable woman, Miss Martineau. She was one who in many ways served her generation nobly and well. She helped to get the old savage Poor Laws abolished. She worked for education. She sought with all her might to better the condition of those around her; yet God, she avows, was not in her scheme of life; and, so far as her own word can be trusted, she lived without God and died without the hope of a future. We can but say of her and of other such lives as hers, that we believe they could only be lived in a Christian land and amid Christian ideas. The very influences they repudiated were what made them what they were. Though they had lost hold of God, God had hold of them, 'girding them,' as the prophet says He girded the heathen king Cyrus, though 'he knew it not.' They were like the great mediæval artist of whom it has been said,

> Himself from God he could not free,
> He builded better than he knew;
> The unconscious stone to beauty grew.

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For ourselves, we may well believe that now, as of old, society is only to be regenerated by the living force of earnest men working with the conviction that God is working with them. Philanthropy, apart from that, seems very hopeless. For if we believe nature to be but 'a vast volcano, throwing up millions of sparks and flashes of life only to be extinguished in eternal gloom,' hope for ourselves and the race dies within us, effort becomes paralysed. We may work on, but it is with hearts saddened and weary hands. That which Christ hath joined together let not man put asunder. They best can love their neighbour as themselves who love the Lord their God with all their heart, and soul, and mind. They best can work for man who realise that they are most truly working for God.

3. It is quite in keeping with the thoughts we have been considering that we gather together to-day. The great Congress in this sacred service seeks to recognise religion as its guiding principle and to lay the foundation of its work in prayer. The Church welcomes them as labourers in the same vineyard, and bids them God speed. It has been laid upon me, as minister of this venerable Church, to give that welcome, and I do so with all my heart, not only in my own name, but I believe in that of all my brethren in this city. There is a deep sympathy with the object of this Congress on the part of the Scottish clergy. It has pleased some to regard them as wholly given up to ecclesiastical wranglings, and metaphysical and theological subtleties, holding aloof from the practical business of life; but those who know them better are aware that they have not lost those practical aptitudes which have always been regarded as characteristic of all Scotchmen. Many of the clergy have occupied a distinguished place in the ranks of social reform. To one, whose great name is inseparably connected with this Church, Scotland owed her educational system;[1] to another, Dr. Chalmers, the attempt to grapple with the great evil of pauperism; to another, Dr. Duncan, of Ruthwell, the savings bank; to Thomas Guthrie, the advocacy of the ragged school. Such men are not without followers still, both in country and in town. The more their number is increased, the more powerful for good will the Scottish clergy become.

It would be presumptuous in me to attempt from this pulpit anything like a survey of the vast and complicated area of inquiry and opinion over which in its sections the Congress will travel. I may, however, be permitted to offer some brief remarks on a few of the subjects to be considered by you, in their religious aspect. In the country of John Knox education can hardly fail

[1] John Knox.

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to be discussed with appropriate earnestness and success. To the popular system of parish schools which that great reformer founded, the Scottish people can distinctly trace secular benefits never perhaps surpassed in the experiences of any nation, and which, in union with our national faith, have made this bleak northern land the radiating centre from which some of the greatest forces of modern life, both in mind and morals, have issued. Grave doubts arise in the minds of many patriotic Scotchmen, as they consider how the system which John Knox established has been recently modified in English standards, how far the well-established benefits of the old may be preserved amidst the greater uniformity of the new. But it is scarcely conceivable that the desire to follow indifferent or questionable Southern models should wean this Northern race from its liberal and comprehensive treatment of the humblest classes in its public schools. I cannot believe that in the future the way will be less open for a poor boy north of the Tweed than it hitherto has been, to push his way in life by the help of industry and good brains cultivated to the highest point of university training. Advantages in this respect, of which we formerly had a practical monopoly, must now be held in the face of tremendous competition; and to sustain us in the struggle we have little to rely upon beyond the prodding of necessity and the 'hereditary intelligence,' whatever that may be worth, which comes down to us from the successive generations of our countrymen who have passed through the old parish schools.

As regards sanitation, there is in Scotland generally, and nowhere more than in this city, a wide field for the teaching of the Social Science Congress. Roughly brought up in a climate which, though favourable to human health, cannot be called genial, the bulk of the Scottish people neither understand nor sufficiently practise those minor acts and appliances of life which conduce so much to its comfort, refinement, and happiness. A keen wind and poor soil make its hardy inhabitants indifferent to precautions which cannot be neglected with impunity, and everywhere in the great towns of the South, as well as in the bothies of the Highlands, there is a want of that neatness, cleanliness, and attention to domestic personal observances which are among the most precious evidences of civilised life. These are matters which do not engage the attention of the Northern clergy so much perhaps as their Southern brethren. They are, however, undoubtedly of great importance, not only to the physical health, but to the spiritual well-being of the community, since not only is it true that

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cleanliness, in its widest sense, is next to godliness, but slovenly habits lead, with almost unerring certainty, to intemperance, as intemperance is the fertile source of disease, degradation, and sin. I cannot myself help thinking that the profound ignorance which is so prevalent among all classes as to the main outlines of the laws of human health and vital function lies at the root of the difficulties with which the sanitary reformer has to contend. Let the accomplished physician and surgeon still be credited, as in the past, with all the mysterious influence which comes to them from the character of their preparatory studies, as well as the solemn circumstances under which their professional labours are conducted, and the technical terms in which their opinions are expressed. It would surely not be inconsistent with this, nor impossible otherwise, to give to every intelligent child in our common schools such a general conception of the mechanism and laws upon which human life depends, that while living he might understand how to treat his body with reasonable care, and might avoid wickedly and wantonly dashing it to pieces. I do not press this view further than what may be useful for a beginning, but it seems to my humble apprehension quite certain that until the mass of the people understand two things essential to their happiness, sanitation in its practical forms can make little progress among them. The first truth is that our bodies are not 'vile,' but God's choicest handiwork and miracles of His providential care. The second is, that one of the most sacred duties of every human being is reverently to protect and guard the tabernacle given him by God for his immortal spirit to dwell in. The amount and quality of knowledge requisite for each individual in giving practical effect to these principles lies easily within the reach of all classes, and could without serious difficulty be provided for in the primary education of the country. It is, at least, as comprehensible, and quite as important, as the rules of arithmetic and grammar; while to the working classes a clear perception of the laws on which their health and labour-power depend is simply priceless. It means the economic use of what is their only capital.

One of the sections of the Congress is devoted to art. Though modern as distinguished from ancient art has received its chief character from Christianity, which glorified human life and taught men to call nothing common or unclean, the power of art, as an ameliorating, elevating influence and moral force, has never been sufficiently realised. We have in Scotland a School of Art peculiarly our own, but it owes more

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to the grandeur of our scenery and the romance of our history than to ecclesiastical influence. Certainly this is true of what is called religious art, of which we are not without some noble examples. In the recoil from Roman superstition the æsthetical in Scotland has grievously suffered. With regard to one branch of art which is to receive the attention of the Congress —dramatic art—the situation is eminently unsatisfactory. While multitudes of Christian laymen, members of our churches, attend dramatic performances without scruple, these are still virtually under the ban of the clergy. Whatever may be our opinions as to the moral influence of the drama—a topic I cannot take up now—such a state of things as I have referred to cannot be regarded as wholesome. The whole subject is deserving of free, and full, and thoughtful discussion.

Although the more judicious treatment of the criminal and the better regulation of prison discipline have made great progress within the last half century, the problems which they present for solution are of extreme interest from a religious point of view. The minister of the Gospel cannot forget that his Master came not to call the righteous, but sinners to repentance, to unloose the bonds of the captive and to set the prisoner free. A strong sympathy must therefore connect the Church in this respect with the labours of the Congress. It is a dreadful and pitiful thought that society, in protecting its dearest and most necessary rights, should have so managed matters from age to age that at last our prisons and punitive arrangements became huge universities for graduation in crime, where old offenders carefully trained whole schools of successive generations of youthful disciples to practise as a profession defiance of the law, and where the sanctions of justice worked out results so terrible that we could not stand them at home, while they threatened to poison and destroy the young life of our colonies abroad. A succession of devoted men, many of them ministers of the Gospel, have by their efforts helped greatly to reduce and control this gigantic evil; but the questions involved, especially the treatment of youthful offenders, still demand the most careful consideration, from which spiritual influences cannot be safely withheld. The dungeons and cells of the dark ages were illuminated by the martyrs to civil and religious liberty who so often suffered in them; but in modern days crime, and crime alone, took such possession of the strongholds to which in the course of justice it was consigned, that with all our appliances and agencies of a reformatory character we have scarcely been able to let the light from above penetrate into these hells upon earth.

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There is one more subject on which I venture to touch, and which I trust may receive earnest attention from some here. There is a dark shadow lying across our path of social progress, full of ominous significance—the shadow of pauperism. 'The poor shall never cease out of the land' is the assurance of God's word, and hardly any Bible truth is more deeply planted in the convictions of mankind. In a sense, too, the poor excite a world-wide sympathy, and are believed to be specially cared for by their Maker. But is it so with the pauper? Is pauperism in any sense a blessing? Let the destitute once get their right to live recognised legally, let them come upon the rates and be felt as a burden that cannot be got rid of, and instantly the whole atmosphere of feeling in regard to him is changed.

It is all quite wrong and indefensible, I admit; but the broad reality remains, and gives microscopic accuracy to the insight with which this first and greatest development of communistic philosophy is watched in these times.

I do not think that the working of Queen Elizabeth's law in England, and the developments which it has from time to time received, can fail to be acknowledged as a great social advance upon the previous provision for the relief of poverty. Probably Scotland, when, late in the day, she received across the border this peculiarly English institution, had no alternative course to pursue, owing to her ecclesiastical divisions; and it is certain that for Ireland, with a population wasted by periodical famine, yet desperately clinging to their native soil, a Poor Law was inevitable. Yet none the less does the minister of religion miss and mourn over the loss under these new conditions of some things which, in his eyes, constitute much of the salt and savour of human society. It may be fancy, but one cannot help thinking that the family ties relax; that the love between parents and children, and the deep sense of responsibility among them for mutual support and succour, are not so strong as of old; that the honourable pride which makes self-respect inclusive of our kith and kin, as well as of our own individuality, is less pronounced than formerly; and that all the train of feelings and associations which used to render Scotch clannishness almost a by-word, are fading from among us. I trust I may be under a delusion in these respects; and I admit that the vigilant administration of the law in Scotland has thus far, with some drawbacks, saved us from some of the worst evils developed by pauperism in the Southern kingdom. It is, however, a most serious matter that the confidential relations between rich and poor, the high character and purpose of Scotch individual life, our indomitable enterprise

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and self-reliance, our faith in our own blood, and methods and institutions, civil and religious, should be in any danger from legalised relief. To watch that system in its development becomes a most necessary obligation on all men to whom the welfare of their country is dear, and especially on the clergy.

It is evident, thank God, to any observer of contemporary history that in many directions the great social forces brought to bear upon the condition of the people are now beginning to produce good fruit. We all of us have seen great and beneficent changes, and nowhere more than in this city, under its enlightened municipal government past and present. I do not think it a too flattering view to take of the time in which we live when I express my earnest belief that the desire to elevate the social state of the whole people on the broadest basis of liberty, civil and religious, underlies, like a great natural deposit of mineral wealth, all the efforts and aspirations of all our statesmen and thinkers, irrespective of party and school. It is also the animating principle of our public life in all its ramifications, and the private citizen dreams of it among his highest and best ideals.

Thank God, I say again, that it is so; and for ourselves, let us labour on, however feeble our efforts, believing that it is God's work we are engaged in, and it cannot fail. Our time, indeed, is short. We are but day labourers. Let us work the harder at that given us to do. As I think of the gathering of this week, I cannot but recall a brother in the field of social progress who has been but just taken from us, whose heart was in those questions which are to come before you—the late Professor of Political Economy in our university. He has gone from us in the midst of philanthropic labour, while 'his eye was not dim or his natural strength abated.' Many who knew him will long have him in kindly remembrance.

Such as he was, such as the best of you are, however high your aspirations and noble your aims, can, after all, do but very little, for life is but a span. The work in which you are engaged is like the building up of such a cathedral as this. Successive generations have worked at it. Each worker has put something of himself into the building; some of his own life, and strength, and power, though its completion he could not hope to see. Let us be content to work on, knowing that we are carrying out the plan of the great Architect. The design—the reward—is in His hand: we are 'labourers together with Him.'

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Opening Address

BY THE

RIGHT HONOURABLE LORD REAY,

PRESIDENT OF THE ASSOCIATION.

THE most agreeable part of the duty which I have to discharge is to bid you welcome to the capital of Scotland. Social science finds in it a congenial atmosphere. Various social problems are here in course of solution, and I have no doubt that practical illustrations will not be wanting for any subject which may be discussed. Of one thing I am certain, that if in any of the departments the question happens to be raised how depression of trade and agriculture should be met, Scotland will be the best instance that can be given of healthy self-reliance and dignified endurance in a very trying period. Scotchmen have been strengthened in their conviction that progress, though arrested for a while, cannot be stopped. It makes them more determined to work with redoubled energy. Difficulties do not weaken, but strengthen, the fibre of our race. They discourage worthless delusions about the perfectibility of society by visionary schemes. They encourage a strictly critical and sober attitude of mind. Under these conditions our meeting may be productive of good.

The department of social science which dwells on a careful examination of the existing state of things is certainly not less important than that which wanders into more or less ideal expectations of a better social system. Idealists will no doubt have something to say at our meeting, and they will not have to complain, I hope, of a cold reception; but Realism is, I am sure, a characteristic of the spirit prevailing North of the Tweed, and I, for one, do not presume at this meeting to desert its ranks. I have no scheme of wholesale social regeneration

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to propound to you; I have no confidence that any good can accrue from such a regeneration proposed by others. I am prepared to admit that in our zeal to improve, we may forget to preserve what has still life in its constitution. Let us, without hesitation, cut off the branches which have ceased to bear fruit; but let us neither stunt the organs in our social system which may still have vitality, nor by artificial processes produce fictitious and exhaustive overgrowths. Scotland proceeds by steady and gradual steps, discarding sensational experiments, and I invite your criticism by saying 'circumspicite,' which I translate: See what we are doing, and find out what we intend to do in the near future in matters of education, of health, of art, of law amendment, and of local government. I carefully abstain from drawing a general picture of the remarkable progress made by Scotland since you assembled here in 1863. Such a picture would not, I fear, be impartial; it would certainly be superficial, and it might disturb that harmony which at all events should be a distinguishing feature of our first gathering. I do not wish to give fresh cause for the assertion that this Association in its autumnal excursion over the sea of social research never sights land. It has to maintain or vindicate its character for definiteness of aim; and if I do not exactly follow the example of my distinguished predecessors, it is because I know that an Edinburgh audience is not lenient to the indefinite. I wish to remain within the boundaries of fact and of contemporary experience in addressing myself to some aspects of our social system which have not as yet been brought under the notice of this Association, and for that purpose I select my subject from those topics which come under observation in the first section of the department of Jurisprudence, over which I am happy to say my distinguished friend, Professor Lorimer, is to preside.

Social science applied to international law embraces comparative social science, or the influence of existing social conditions on existing international relations. Our Association undertakes, therefore, to analyse the social systems of various countries; to inquire how these social systems affect their international relations, and to draw conclusions for the amendment of international law from these international relations.

I shall confine my observations to the influence of the social systems of the Continent and of England on international relations, because an analysis of the various social systems of the whole world would carry us too far, and the amendment of international law would be too technical. As it is, I shall have to curtail the subject, not less perhaps than you would desire,

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but more perhaps than you have a right to expect, studiously avoiding all reference to present controversial politics.

It will do us no harm to start from lower latitudes, and to survey our present surroundings, before we ascend to the higher latitudes of social reform, which are sure to be visited in the various departments in the next few days by members of this Association more gifted for such a task than it is my good fortune to be.

Our social system differs from that of the Continent on three material points—in its non-military, non-bureaucratic, and non-anti-clerical character. We do not wish to introduce the Prussian army system; we have a very limited number of officials, and we remove the charms of patronage from the grasp of the Executive by our Civil Service examinations; and there are no symptoms that the great anti-clerical struggle now being waged in most countries of the Continent has any hold on English society in the present day. There is no party in England which calls for State interference with the affairs of free churches. All foreigners, when any of these three topics are alluded to, immediately speak the same language; there may be a Babel of tongues, there is no lack of understanding. They all take a pride in their army; they all wish, in some form or other, to belong to the bureaucracy, or to take part in managing it; they at once recognise on what side their sympathies are towards any church. Our civilisation runs in a totally different groove. There may be plutocratic arrogance both in town and country; but the absence of caste pretensions in our military men, in our officials, and in our clergy, leaves, as a rule, nothing to be desired. Besides these points, there are a great many others—our landed system, our common and statute law, the character of our public schools and universities, our want of thrift, to say nothing of the need of cheap wine, of cheap popular amusements, of cheap legal procedure, which for the present draw a line of demarcation between us and the Continent; but I am not prepared to maintain that in those matters we may not on some points reduce the distance.

Taking for granted that the social system of the Continent is different from our own, how does this difference affect international relations between the two? What is the prevailing tone on the Continent on the great subject of international affairs? Every Government is convinced that it must be armed to the teeth; that it is threatened by some mysterious force which only future events will unfold. Nobody is rash enough to predict what particular danger will arise; but you

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cannot have a serious conversation with any foreign statesman, to whatever party he may belong, who will not tell you that the army estimates are those which all politicians are agreed not to stint. Any proposal of disarmament would be met everywhere by a courteous but decided refusal. To weaken the means of defence, we should be told, would be to increase the sense of insecurity. Self-preservation is the first duty of a nation, and even peace is more likely to result from strength than from weakness. The temptation for a nation with a superior army to use it will be all the greater in proportion to its neighbour's weakness.

'Si vis pacem para bellum.' Where conscription still holds its own as against general compulsory service, that party, which asks that the latter should be introduced, is gaining in strength. If the army and the nation are completely identified with each other, there is less fear, so they argue, that the army will be used for ends which are not strictly national. It can do nobody any harm to be equipped for the defence of national independence. Far from it. The acquisition of this art is a healthy moral and mental training. Let it be used for those objects. Give your staff officers the character of professors, your colonels that of head masters, your non-commissioned officers that of licensed teachers, and you have a school by which early training becomes adapted to more advanced purposes. It would be admitted that much time is given up, much money spent; but this secondary education, it would be maintained, is well worth the sacrifice, and our 'Rechtsstaat' is only safe where this military education is made perfect.

All these arguments would not convince an Englishman. We should ask whether a process which imperils free trade, the development of manufactures, of agriculture, and of trade, and which encourages emigration, is an educational system of undoubted efficacy. We should also inquire whether it can be kept up without ever testing it by war? Whether this test does not retard the progress of the nation? Whether socialistic doctrines are not likely to offer a counter-attraction? All these and many more embarrassing questions would be forthcoming.

The crushing reply would probably be: You may be right or wrong, but we cannot stop to consider these issues. Our first duty is to secure our national existence at all hazards, even if we are 'propter vitam vivendi perdere causas.' We are not guided by disinterested motives, because in the world in which we must hold our own, disinterestedness does not prevail. States, they would contend, are not guided by generous motives, and a statesman with us who would trust to the conscientious and

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righteous character of other statesmen, would simply illustrate his own simplicity. As well might you ask the directors of a railway company, or of a bank, to lower their rates of traffic or of discount, on other than commercial principles. We look, they would continue, upon the management of international affairs as upon a race, and we must be in the running. We agree with Lord Palmerston, when he said in his speech in the House of Commons of March the 1st, 1848: 'As to the romantic notion that nations or Governments are much or permanently influenced by friendships and God knows what, I say that those who maintain those notions, and compare the intercourse of individuals to the intercourse of nations, are indulging a vain dream. The only thing which makes one Government follow the advice and yield to the counsel of another, is the hope of benefit to accrue from adopting it, or the fear of consequences in opposing it.'

If we see two States forming an alliance, we know that they are not drawn together by any natural affinity; they seek to obtain a prize for their common benefit, or to prevent another Power from getting one. We must therefore consider how this coalition will affect our interests. If we hear of the principle of balance of power, of that of nationality, we must look upon the application of these principles with an eye to our own interests, and we must hasten their development or delay it as it may affect us. We can remain on good terms with all the Powers only if we pursue this line of policy, because by departing from it we shall lay ourselves open to dangerous misunderstandings.

You ask us to submit to arbitration as the means of settling international disputes instead of trusting to our army, but then to which of our neighbours would you give the power of constituting the court? To what code of law are they to apply, and who are to enforce the award? Who is to draw up a case which will give a clear account of the matter under contention? Supposing you collect your judges, you constitute an international parliament, including a senate, consisting say of the representatives of European and American universities, and get a code of international law and an international executive strong enough to enforce your verdict, how are you to prevent this verdict becoming the cause of future dissensions when we have a better chance of vindicating our rights, or what we believe to be our rights?

You mention the balance of power as having been a promoter of peace from the Treaty of Westphalia to the partition of Poland, and as having been the basis of the arrangement of Utrecht and

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of Vienna, and as having secured the independence of Geneva and of San Marino. Supposing you are right and that Hardenberg was wrong, when he said that the Congress of Vienna was an auction of nations and an orgy of kings, what becomes of this theory of the Chevalier de Gentz on 'balance of power,' under the influence of the principle of nationality as asserted by intervention and by annexation? What is to become of it when it again comes into collision with these principles? Was it not wise to remove the expression 'balance of power' from the preamble of the Mutiny Act? Are you not aware that in the circular despatch of the French Minister of Foreign Affairs of the 4th of December, 1862, on the Greek question, it is first appealed to and afterwards dismissed: 'Le gouvernement de l'Empereur en ce qui le concerne ne pouvait moins faire que de prendre acte d'un semblable événement, en se réservant d'aviser, s'il y a lieu, au rétablissement de l'équilibre altéré'; and then in the same document he admits: 'Les principes de notre droit public ne nous autorisaient pas à établir dans un document officiel, que nous refuserions indéfiniment de reconnaître un Souverain, qui aurait été élu par le suffrage libre et spontané de la Grèce, en désaccord avec les engagements qui lient les Puissances entre elles.' Our contribution to the balance of power is the army we are strengthening and increasing. The balance of power in its present phase, we think, can only mean that every Power must provide against losing its own stability by reason of its weakness.

You talk of treaties; we know them by heart. We do not intend to break them if we can help it; but what of the sanctity of treaties? What has become of that great Treaty of Vienna? What of so many other treaties? To our mind treaties are only the exposition at a given period of the relations existing between different Powers at the time. They contain either a compromise, which is only meant to endure as long as the relative positions endure, or they contain a cordial agreement which ceases, however, to be cordial as soon as the reason for the 'entente cordiale' subsides. We do not accuse, they would add, a Government of bad faith which does not keep a treaty, when it is led by considerations of higher policy to abandon it, because self-interest is only the higher policy to which everything must yield.

The Treaty of Paris in 1856, of Zurich in 1858, and of Prague in 1866 are recent instances of the validity of treaty engagements. If treaties come into conflict with the rising flood of nationalities, we know what we have to expect, and how soon universal suffrage disposes of them. We know that

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on July the 26th, 1866, the preliminaries of Nikolsburg stipulated that the Southern States of Germany should not enter the new Northern Confederation, and that nevertheless in August the secret offensive and defensive treaties were made with the Southern German States which virtually founded the unity of Germany.

We have not forgotten Benedetti's proposed secret treaty of the 5th of August 1866, which was to secure to France the whole of the left bank of the Rhine, and his other secret treaty of the latter part of the month about Belgium. The draft of this August treaty was given on Sunday morning to Prince Bismarck by Benedetti, and immediately General Manteuffel was summoned to Berlin from Frankfort and sent to St. Petersburg, I need not say, to secure the goodwill of Russia. How much keener was the insight of Napoleon III. when, before Sadowa, he alluded to Belgium in these words: 'I dare not touch the Belgian question; it would be an act of robbery.'

Treaties are international statutes, but, unlike municipal, or strictly national statutes, they create confusion and not order when you place too implicit a reliance on them. The sanction of a treaty is not in its contents, according to this theory, but in the permanence of the situation out of which it grew. It is not in the treaty, but in its adaptability to the circumstances and forces which led to it, that its virtue consists; and you have, therefore, either to prevent the change of those circumstances and forces, or to rescind the treaty when it is incompatible with the new situation, or to maintain it by having recourse to arms. Instead of passively trusting to the maintenance of treaties, the safer course to pursue will be to alter those treaties whenever they have ceased to be in harmony with the existing state of things. Anticipate, they would advise, an attack on treaty rights; watch carefully the points of a treaty which are becoming weak. These weak points may afford a welcome opportunity to a Power wishing to go to war.

Internal legislation is constantly adapted to new exigencies. International legislation ought not to be placed in a different position. Recognise this, and you can avoid disturbance; fossilise treaties, and you court disasters. Confine the stream within too narrow limits, and the banks are washed away. The duty of an architect is to provide an edifice suitable to the wants of those who are to dwell in it. You pretend to be a political architect: then it is your duty to erect habitations suitable to the nations of Europe and their present wants—not to confine them in abodes which they have outgrown.

It can well be imagined how novel these doctrines would

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appear to a diplomatist of the old school, which endeavoured to perpetuate international obligations as established by treaties. That school represented tradition; its manners were excellent, its phraseology refined, its banter easy. As long as these diplomatists knew the minds of the Court which they represented, and of the Court to which they were accredited, they were content. England, with its Parliamentary and eccentric *régime*, was even in those days a troublesome exception. The 'j'aime vos brouillards mystiques' did not represent the prevailing temper of diplomatists in London.

The great French Revolution unsettled this state of affairs, and a horrid glare of democratic light was thrown on the sphere of diplomatic activity when it was invaded by such men as Jean Debry, Garat, and Sièyes; but the Congress of Vienna was a new starting-point for legitimism, and the diplomatic circles of Europe then began to breathe again more freely, returning to their first manner.

With Napoleon III. and the emancipation of Italy we enter on a new era of international statesmanship. The system of annexation by universal suffrage was a novel idea, which completely bewildered the old school. The combinations of Cavour were the germ of a new system of international relations. This new process of attaining unity was an invasion by political know-nothings of a sacred arena. For a precedent one had to go back to the days of Brissot and Danton.

Diplomatists found their sphere of observation suddenly widened. It became necessary to dive into recesses which had hitherto been carefully shunned. Despatches had to be written about subjects which had until then been ignored. The movements of Mazzini and of Garibaldi had to be chronicled as well as the conversations with Cavour. New forces had come into operation of a much more complex character.

A Continental diplomatist will be expected by his Government to watch carefully, not one, but every movement going on in the country where he resides. There is no greater misapprehension than the belief, too widely prevalent, that diplomacy is a thing of the past.

The important results which, even in these days, diplomatists can effect, are shown by the remarkable feat of Count Goltz, late Prussian Minister at the Court of Napoleon III., who, on the 19th of July, 1866, asked M. Drouyn de Lhuys, the French Minister of Foreign Affairs, to assent to the cession to Prussia of territory with a population of 300,000 Germans. M. Drouyn de Lhuys said he would communicate

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this demand to the Emperor, but that he did not see how such a transfer could be sanctioned without the concurrence of Europe. Count Goltz went straight to the Emperor, at St. Cloud, who there and then promised him to recognise the annexations of Hanover, Electoral Hesse, Nassau, and Frankfort, with a population of about four and a half millions of Germans. Count Goltz communicated this decision to M. Drouyn de Lhuys next day, adding that the Emperor left the question of compensation to France to stand over for ulterior negotiations.

Diplomatists are the reconnoitring force of the country. A man worthy of the name of diplomatist must make himself acquainted with all the subjects which Plenipotentiaries, in the days of the Congress of Vienna, had at their fingers' ends; but the great religious, literary, social, and financial questions, which influence a nation's life, he cannot now look at from the 'dilettante' point of view. Take journalism: a diplomatist accredited to the Court of St. James's might arrive at very erroneous conclusions if he were not familiar with the great influence of 'the provincial press,' which in many instances is conducted with signal ability and which has very great influence. A foreign diplomatist, again, who left England without having studied the views of the middle and working classes, might just as well never have crossed the Channel.

To retain their influence amidst the various crises which a country may go through, knowledge, tact, and placidity of temper are required. To ask of diplomatists that they should meet national demands with arguments derived from antiquated treatises of international law is hopeless. A modern diplomatist negotiating a treaty ought to introduce into it a minimum of binding clauses; he will reserve to his country as much freedom as he can, and he will exclude the subjects which, though at the time they might be settled amicably, could possibly in the long run give rise to difficulties. As long as it is not easy to annul or amend treaties, diplomatists will only in the last resort make them, for fear that the treaty, no longer representing the relative social systems of two countries, should become a cause of dispute at some future period.

Temporary arrangements between Governments with respect to their action in certain contingencies will prove more to the purpose, and not involve as many risks as treaties of a permanent character. In a word balance of power, arbitration, treaties, are very good subjects for the examination of an attaché, but in the present temper of nations they are very

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unstable barriers. It is therefore this temper, as showing itself in the hopes and fears of nations, and the manner in which it is controlled, exercised, or roused by their Governments, which should be constantly watched by a European diplomatist. Bismarck writes from Frankfort, on the 2nd of April, 1858: 'Your idea of using the Prussian Chambers as means of supporting our aspirations to supremacy mainly coincides with my own. Chambers and press might become the most powerful allies of our foreign policy.'

The nation may be in a peaceful mood to-day, but to-morrow it may be in the same combative mood in which Napoleon I. found France. On whatever else a statesman may rely, he would not be wise to rely on the stability of a nation's temper, and he ought to be prepared for every emergency. The experience of the late Emperor Napoleon III. contains a warning which should not be lost. The Emperor generally speaking disliked war. He wished to establish a new order of things in Europe, in which balance of power, independence of nations, disarmament, free trade, should all conspire to make of the Continent a better dwelling-place for humanity than he found it. What became of it all? If the Emperor had studied facts; if, instead of being a visionary optimist, he had had the first quality of a statesman, a keen perception of the selfish aspirations of other nations, perhaps he would not have gained credit for easy good-nature, but the condition of France and Europe would have been less precarious.

No page of history is more instructive, as showing how modern diplomacy is conducted, than Prince Bismarck's proceedings in 1866. The realistic school, as represented by Bismarck, and the idealist school, as represented by Napoleon, measured their strength against each other in that eventful year. Without consummate knowledge of the requirements of the old school of diplomacy, as well as of the ideas of the new school, Prince Bismarck could not have accomplished his task. His knowledge of the sovereigns, of the statesmen, as well as of the military and social condition of the various European countries, made it possible for him to consolidate Germany, and we may well say, in spite of Germany herself, because the war with Austria was as unpopular as the present friendly relations with Austria are highly popular in Germany. Bismarck's first care, of course, was to have a perfect army, and to have men like Usedom and Goltz to keep him well informed of the relations existing between France and Italy. With this, however, he was not satisfied, and he went to Biarritz to find out for himself what Napoleon III.'s intentions

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were. He kept himself free of all entanglements; he talked of compensations to France, but he gave none.

The annexation of the Elbe Duchies was only determined upon after the French Emperor's views had been ascertained by Goltz. The negotiations with the Italian General Govone were conducted with extreme caution. One cannot help smiling now in reading General Govone's despatch to La Marmora: 'E la vipera avrà morsicato il ciarlatano'—the viper bites the charlatan! German public opinion is excited by allusions in the press to the Austrian armaments.

From General Govone's despatch of March the 17th, 1866, it appears that the opinion of England is taken into consideration by Prince Bismarck, and that he would rather not fight on account of the Duchies, because England disapproves of such a war, and she would not disapprove of a war in favour of German unity. He finds a much better cause, with a liberal ring, in the more revision of the Federal Constitution on the basis of the Constitution of 1849, with a central military power having control of foreign relations, and a Legislative Assembly returned by universal suffrage. On the 8th of April the treaty is signed—to remain valid for three months—between Germany and Italy, and in May assurances are given at St. Petersburg that no treaty exists. At the same time the French Ambassador is informed by Bismarck: 'I have persuaded a Prussian King to break off the intimate relations of his house with the Imperial House of Austria, to conclude a treaty of alliance with revolutionary Italy, to accept eventually arrangements with Imperial France, and to propose at Frankfort the remodelling of the Federal Constitution, with the assistance of a popular Assembly.'

Napoleon III.'s wishes, as stated in a report of M. Nigra, the Italian Minister in Paris, to the Prince de Carignan, were:—

1. That war should break out.

2. That he should not have any agreement with Prussia, Austria, or Italy.

3. That the treaty between Prussia and Italy should be concluded, on his advice as a friend.

4. To get the frontier of the Rhine without war, but determined to enter upon war, if necessary, after war had been declared.

5. If Austria attacks Italy he would defend her.

Well might Bismarck say: 'If Italy did not exist she should have been invented!' Italy had at her disposal, besides Nigra, Marquis Pepoli, the Emperor's friend Count Arese,

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and Prince Napoleon. The very alliance which the whole policy of France should have been directed to prevent, was actually encouraged by its rulers. Cavour, on the other hand, had clearly foreseen this event. In 1860 he answered a rather bitter note of the Prussian Government by remarking that if the Italians were quick enough to see in Prussia a natural ally, some day the Prussians would come to the same conclusion. He foresaw that France might eventually find out her mistake, and that then Prussia and Italy jointly would have to defend their principles and their independence, from whichever side danger and complications might arise. It is not unlikely that Bismarck shared Cavour's idea, because he knew that the French Emperor could not, or would not, prevent Italy from getting Venice. This was so well known that Nigra and Prince Napoleon actually struck out the extraordinary idea of a triple alliance between France, Prussia, and Italy, and the latter protested against having any relations with the 'Austrian corpse' and against using the 'balance of power' as a lever to oppose a nation which did not want to make any conquests of French territory. The Emperor had, in his letter to his Minister of Foreign Affairs, read in the French Parliament on the 13th of June, made an appeal on behalf of two objects—European balance of power and Italian unity.

The revolution at Bucharest had afforded a splendid opportunity of exchanging the Danubian Principalities for Venice. Nigra had received instructions to that effect from General de la Marmora; but here again both the Austrian and French Governments lost their opportunity, and in securing Roumania to a Hohenzollern prince, Bismarck established a point of observation and a most valuable outpost for Germany, the neutralisation of which might constitute an Eastern Belgium whenever Germany required such a guarantee.

The proposal of a Congress by England, France, and Russia on May the 24th, 1866, was accepted by the Powers, even by Prussia; but the Austrian reservations were considered by Prince Gortchakow fatal to the success of the Congress: he thereby saved Bismarck from a great embarrassment. The proposal was repeated in a letter of the Emperor Alexander to the Emperor Napoleon after Sadowa, but refused by France, because more reliance was placed by France on a separate understanding with Prussia, in accordance with the wishes of Prince Bismarck, that Prussia should be free from the control of Europe, as Benedetti had stated in his report of July the 15th, 1866. Both Austria and France would have been all the better for acting—or, at all events, trying to act—

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in concert with the other Powers of Europe in May and July of that year, 1866.

Austria made war against the theory of nationalities in favour of the sanctity of treaties; only Prussia had made complete arrangements, and we know the issue. France had taken no precautions, she had not even an army of observation on her eastern frontier. A very eminent German politician, an opponent of Bismarck's policy, once told me: 'He is the only statesman of this epoch who has courage and boldness.' Now, it is quite true that without resolute determination Bismarck could not have accomplished his marvellous feats; but the solution given by a great Prussian general of the success of Prussia when he said, 'Nur Intelligenz,' should not be lost sight of. It should be kept in view that the Prussian organisation shapes the intellectual and non-intellectual forces of the country, from the heir to the throne down to a Pomeranian peasant. The machinery is so perfect that it constantly secures the assimilation of all progressive science; routine and useless tools are thrown overboard. The 'legerdemain' theory, which is the great danger of the autocratic, oligarchic, and democratic systems, has no room in this beehive of human activity. It is not cleverness, it is ability and cautious forethought which have made Germany. It is not a man only, but a finished system worked by a combination of superior men.

The French, after the disasters of 1870, at once grasped this fact; and what the French are doing now in the reorganisation of the army, and of their system of education, shows that they have thoroughly mastered the secret of their adversaries. 'Qui veut la fin, veut les moyens;' and on the Continent of Europe, as at present constituted, an absorption of the best forces of the nation in the bureaucratic and military departments is almost inevitable. Europe is at present applying, more or less, the principles of the Prussian system, and this Prussianising influence must react on the social system abroad, producing, more or less, the same results which we behold in Germany. But whether Germany itself will be benefited by this homage to its genius is more than doubtful.

These events are pregnant with lessons. Our starting-point is the desire of Italy to become united. We see Prince Bismarck bending events and men to his purpose—the unity of Germany —though his countrymen were decidedly opposed to the war with Austria, not because they did not wish to be at the head of a united Germany, but because they doubted

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their own strength, and believed that France would interfere. The Gastein Convention of the 14th of August, 1865, signed by the Emperor of Austria and the King of Prussia—the very instrument of peace—was turned into an instrument of war by Bismarck contending that it was not strictly observed by Austria. We see the French people having a just appreciation of their interests, and those interests ably defined by Thiers in his famous speech of May the 3rd, 1866, who, if France had been a constitutional country, would undoubtedly have defeated the Government. The whole situation, however, is overruled by the superior tools which Prussia had at its disposal—first, in its army; secondly, in its statesmen; thirdly, in its organisation. The Emperor of the French, on the other hand, being without this organisation, misled by the idea of balance of power and by the idea of an enduring alliance with Italy on the fragile basis of gratitude, falls into one trap after another. Wishing to be the arbiter of the destinies of Italy, he shakes the foundations of his throne. Having failed to obtain guarantees from either Prussia or Italy, when he might easily have got them for the asking, trusting that opportunities would offer themselves, but not snatching them, even at the eleventh hour, it was his inevitable fate ultimately to be left face to face with a strong Germany, a neutral Italy, and a neutral Austria. If he had been more cautious, less influenced by his one idea, the independence of Venice, less sanguine, he would have done one of two things—either stopped the warlike preparations of Italy, Austria, and Prussia, and insisted on maintaining the *status quo*; or have been prepared to meet the emergency by a display of strength, and by the concert of the other Powers. The union of Italy and of Germany might have come about all the same, but it would have been by a different method.

If the popular voice had not been paralysed in France, when it spoke through the mouth of Thiers; if the situation had been more fully discussed in the Prussian and Austrian Parliaments; if the Powers had established a concert, we should have witnessed a transformation, but probably a different one. As it was, the issue could not have been different; but it should teach us that, without constant preparation, without incessant activity in the military and diplomatic departments, the destinies of nations, when they come into collision, cannot yield to any other arguments than those of intellectual and material superiority. You must either keep out of the fray or, if this is impossible, prepare for it. Once engaged, you cannot beat a hasty retreat, and your best in-

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tentions, your best instructions and actions, become the cause of your downfall. If France had remained neutral, and had not exposed her weakness, but kept up an observant and military attitude, she might have made the other Powers think twice before they drew the sword. They drew it, and it was whetted to be drawn eventually against France.

The application of the moral to ourselves is easy. Unless we strengthen our position in every respect, apply our diplomatic tactics with great versatility to the ever-varying needs of the time, we shall incur serious risks. The generous instincts of our people, their love of fair play, would not extricate us nor prevent blunders by our rulers.

The danger to which we are exposed is twofold. First, that our enthusiasm being aroused for some cause or other, however just it may be, we may overlook side-issues, and so find ourselves in and even create unexpected difficulties; but then, if there is a science of politics, that is where it must come into play. As Bismarck said: 'Statecraft is a profound science; our calculations will know how to paralyse or to postpone the triumph of popular movements.' Napoleon I. expressed his feelings about the will of the people when, on December the 28th, 1813, he said, in the Council of State: 'Voudrait-on rétablir la souveraineté du peuple? Eh bien! en ce cas, je me fais peuple, car je prétends être toujours là où se trouve la souveraineté.' Secondly, that we may not understand the temper of the men who at present rule the destinies of Europe. We must take care not to be in the position of a person who plays with good players, being himself a bad player. He not only loses the game, but also disturbs the game of the others, who, in consequence, bear him no goodwill, and may form a coalition against him.

All foreign Powers are at this moment following out a well-defined policy by varying means. As with individuals, so with Governments, nothing gives them greater strength than the knowledge that they have a definite task before them. They may have internal questions on which their countrymen may differ, but on questions of self-preservation you will find hardly any Government unsupported by men of all parties. Diplomatic tactics directed by such men as Prince Bismarck and Prince Gortchakow, or the men who have been educated in that school, do not constitute an occult art, but a science which can only be acquired by very minute and constant observation of the body politic of Europe. They understand each other—they know 'ce que parler veut dire.'

All the Powers are watching one another, and are either

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bent on increase or recovery of territory or on maintaining their present position against all comers. Nowhere is there any confidence in the actual situation. Of course protestations are being made of peaceful aims, but there is not a boy learning the constitution of his country in any secondary school of Europe who believes in them.

I am quite aware that there is a sincere peace party on the Continent—that many of the wisest men on the Continent wish to escape from the perils by which they are surrounded. Neither am I unaware that the Italian Chamber of Deputies, on the 24th of November, 1873, adopted a resolution, proposed by the learned and distinguished Mancini, in favour of arbitration; while other Legislative Assemblies had their attention called to the same subject by earnest supporters; but this does not prevent public opinion from running in the opposite direction, so widespread is the sense of insecurity. It does not affect my main proposition as regards the condition of Europe.

'La politique n'est pas l'œuvre des saints' may well be applied to this state of things, and it will not do to look upon artful politicians as if they were artless county members. The great fact remains that the whole of Europe is inspired by the Prussian system, in the same way as the French 'Code Civil' made its influence felt in a great part of Europe, and that we are the only country whose original individuality has not been shaken either by the Prussian or the French afflatus.

To prevent our being drawn into this vortex is surely, in an eminent degree, a great problem of social science. To keep our social fabric undisturbed by the influences which are raising a social system diametrically opposed to our own all over the Continent of Europe, is a great and glorious work of self-preservation.

If we succeed in keeping our social system free from militarism and bureaucracy, what is to be our attitude towards Continental nations in their present suspicious and insecure condition? The regeneration of the Continent of Europe is quite as hopeless at present as its disarmament, and any ill-considered attempt on our part to interfere may delay the very object we have at heart. Supposing, for instance, that we—from the best of motives and for the best of reasons—endorsed the policy of one or more of the great Powers, disarmament would not be the result, but a fresh stimulus would simply be given to the armaments of those Powers whose policy might be supposed to be uncongenial to ourselves. A policy of neutrality, of very strict neutrality, not tinged by hostility towards a single Power, but benevolent towards every one of them, friendly to

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the last degree to the smaller Powers, is the natural result of the existing state of things. A neutral policy is essentially different from a policy of non-intervention, which existing treaties forbid, and which our interests everywhere render an impossibility. It is worthy of remark that it was the Duke of Wellington who, at the Congress of Verona, under instructions from Lord Castlereagh, declared that this country preferred isolation to such an application of the theory of the Alliance as might lead to the crushing of nationalities. Besides, the policy of non-intervention once having been proclaimed would, through the false impression it must needs create in other nations as to our character, lead to the very results which it was intended to avoid. Extremely sensitive as the nation undoubtedly is, and always will be, on all points where its dignity is concerned—conscious as it is of the uprightness of its motives—any mean advantage taken by another Power at our expense would be resented, and would put a speedy end to non-intervention. A watchful and reserved neutrality, on the other hand, will be a discouragement to other Powers to treat our advice, in the rare instances when it should be given, with anything but respect, and will restrain their aggressive tendencies, because a policy of neutrality, not being identical with a policy of non-intervention, may cease the moment circumstances call for its abandonment.

Such a policy requires in the statesmen who direct it an intimate knowledge, not only of the relations prevailing on the Continent between the various Powers, but of the latent forces which may at any time disturb them. A neutral policy is never inert.

Probably alone, of all Powers, ours is the one whose statesmen, if they take the trouble to ascertain the real aspirations of foreign statesmen, which are frequently at variance with their written and spoken utterances, can attain a position which will make them listened to with respect in every capital. Such a position has been held by English statesmen before now; that of Lord Clarendon being perhaps the most conspicuous illustration. England alone occupying a really neutral position, English statesmen alone have the enviable opportunity of gaining the confidence of all the leading politicians of Europe, because they have nothing to conceal and the nation nothing to covet. Statements made in Parliamentary language to the representatives of the people should never diverge from those made in diplomatic language to foreign ministers, securing the confidence of both by political sagacity coupled with scrupulous adherence to truth. The strength of our statesmen is in the know-

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ledge, at home and abroad, that they avoid subterfuge (finesse), that they rely on plain speaking, and on the confidence which this experience in its turn secures to them at home and abroad. Our chief contribution to the maintenance of peace in Europe is to be made through the ascendency of our statesmen over the minds of Continental statesmen, not less important than their ascendency in Parliament and over their own subordinates in high places. It is not easy, I admit, to qualify for such a a position, which requires special gifts of the highest mental and moral order; and, having obtained the position, to keep it. But the maintenance of peace in England depends to a great extent on the character of her statesmen. Public opinion cannot exclude foreign affairs from its survey; public feeling will at times run very high; unless it be controlled and guided—as it was in the United States by Mr. Seward in the crisis arising from the seizure of Mason and Slidell—by men of a judicious temperament. At home and abroad, in such crises, all eyes will be turned towards the statesmen whose resolute firmness and sound judgment may restore confidence, or whose vacillation, prejudices, and impulsiveness may precipitate war.

English diplomatists cannot but see how the international relations on the Continent are affected by the general mistrust which prevails, and which necessarily is a prominent characteristic of the statesmen with whom they have to deal. As English gentlemen are, by the wholesome principles of our system of education, taught to be unsuspicious, to trust to the loyalty of their associates, they cannot be expected to alter their tone. Diamond cuts diamond, but the superiority of English diplomatists will be the superiority of English gentlemen. Their strength lies in their remaining true to their character. 'La perfide Albion' is an obsolete misnomer without point. English diplomacy and English policy are straightforward. In this straightforwardness lies their superiority.

We have our own ways; we transact our business in our own way. British interests are the interests of the British public, and the British public do not care to transact their business in the dark. British statesmen are proud of being called public men, and they are never unprepared to meet the public gaze. Details of negotiations must, of course, be left to the responsibility of those who govern; but the drift of our policy can never remain secret without losing its virtue and authority, which are a direct result of the strength it derives from the harmony known to exist between the Government and the nation, and which can only be obtained by a free exchange of opinions. A foreign statesman knows that a representative of

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England has nothing to gain by following Talleyrand's advice, viz. using words to mask his thoughts. There are no means in England of escaping the worst punishment, that of being 'found out.' In comparing the merits of English and Continental foreign policy, we have a double advantage, because not only is the spirit of our policy adverse to aggression, but also the whole machinery through which it works being of necessity public, it therefore disarms suspicion and obviates misunderstandings. When the wife of Marshal Biron was, at the age of 80, prosecuted for conspiracy, the public prosecutor, knowing that she could not hear a word, exclaimed, 'Ecrivez qu'elle a conspiré sourdement.' Whatever verdict history may record against our policy, it ought never to record that we have been guilty of secret conspiracies against the peace of the world.

The best form in which we can establish our influence is by trying to originate or promote concert between the European Powers, when there is a clear case for it, and *primâ facie* evidence that the attempt may be successful. It must then be clearly defined, limited in its scope, and the means of execution must be agreed upon. None of the drawbacks which attend the conclusion of treaties, arbitration, or one-sided alliances apply to this concert, which in the present condition of Europe is the only mode of action which is left to States sincerely desirous to remove causes of war or anarchy. It should, however, be quite clear that this concert is not simply to constitute us the sole executors of its decrees, leaving the other Powers free to disregard the results of the concert.

Let me bring under your notice the first attempt to establish a concert between the European Powers. In a Note of May the 12th, 1792, addressed by the Ministers of Austria and Prussia at Copenhagen to the Danish Government, the situation of France is described to be, in their opinion, one in which all Sovereigns and all Governments are concerned. The object of this concert was twofold: first, to uphold the injured rights of the Princes of the Empire, as also those of the Holy See, and to counteract the danger which threatened the other States from the spread of French principles. In the second place, the object of the concert was to maintain the real principles of monarchical government in France. The only limits assigned to the French Constitutional reform are, that it shall not take place without the concurrence of the King. The means which the Powers will use, it is observed, are to be sufficient to secure the result, proportionate to the strength of each of the united Powers, and organised after a general plan of operations.

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This concert can be attained, it is further stated, either by military forces or by grants of money to those Powers who are to use a larger number of troops than is represented by their legitimate share. In either case it will be necessary to define the quality and quantity of the means which each Power promises to supply, as also the period at which these stipulations are to be executed. Fearing to jeopardise their own independence, the smaller Powers abstained, and the King of Sardinia was the only Sovereign in Italy who, on the 25th of July, 1792, joined the concert. Catherine II. was represented, but did not give any material support, concluding, on the 14th of July, 1792, however, a defensive alliance with Austria.

The idea of concert, as it was called on the one side, or coalition on the other, in favour of a general European interest, instead of an alliance of an individual Power combining with another Power to secure their common interests, was beyond the conception of most Governments, who were afraid of wasting their resources to promote the special interests of Austria and Prussia, and thought they might as well leave that task to Austria and Prussia themselves, in whose enduring cordial relations besides they had not much confidence. For this there was only too much reason, because all the chief statesmen and generals of Prussia at that time were against an alliance with Austria and against a war with France. The Polish question added to the complications of the situation, and the mutual fear of the three Eastern monarchs in regard to Poland made them feeble against France and feeble in their appeal to the other Powers, because they pursued exactly opposite objects in Western and in Eastern Europe. In France they wanted to crush revolution, and in Poland they were fomenting disorder.

Still, if there ever was a paramount cause for European concert, it was in the principles which the French Convention enunciated—after the intervention of Austria and Prussia broke down in August—that revolutionary movements in all countries should be placed under the patronage of the Republic, whether the majority of the inhabitants liked this patronage or not. In this crisis everything conspired to make the European concert not only desirable, but almost imperative for self-defence, but it was not possible to triumph over obstacles which only greater perils and greater arrogance could overcome. In May 1792 the English Government was not prepared to accept the Austrian proposal, and in November 1792 the same Government proposed at Vienna a plan of military measures for the protection of the United Provinces and for the recovery

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of the Austrian Netherlands. In a case of this kind, where the British Government had decided to act in any event, it was certainly wise to try and establish a preliminary concert, and serious disasters might have been prevented. For England there was at that time and there is now no better way of showing that the chief aim of its foreign policy is to prevent the outbreak of war.

No Power can afford to weaken itself by attacking England, but it is also clear that no Power can afford to look with indifference upon the part which England may at any time play. Every Power will, therefore, endeavour to ascertain what are the objects of English policy. One of the first conditions of the strength of an empire like ours is that peace and contentment should prevail in all its parts—that our social system should be strong. For the action of Germany the most important factor is the report of the Minister of War on the condition of the army and of foreign armies. For the action of England the preliminary condition is the undisturbed state of India and the Colonies, and the security of the roads which lead to them.

A Government having to deal with perplexing questions in all parts of the world must take them in hand in proper succession, and not be distracted by simultaneous complications in various quarters. The first duty of a ruler of this empire is to concentrate his energies. The great problem of our strength in Europe, of our influence in its councils, is therefore our perfect immunity from complications in America, in Asia, in Australia, in Africa. An English diplomatist addressing a Foreign Secretary abroad on any given question, and knowing that the empire is tranquil, will find himself in a very different position if, on the contrary, the question on which he gives an opinion must needs be subordinate to the settlement of an imperial interest elsewhere.

The first condition of our influence in Europe is the absence of domestic anxiety. This is an essential characteristic of our position. For us, Continental questions can never be all-absorbing. Our relations with the United States do not yield in importance to any. A main object of English policy will be to remove all hindrances to sympathy between England and the United States, and to settle in a friendly spirit all points upon which difficulties may arise. The knowledge of the existence of unthreatened and undisturbed relations with them is more telling in its direct consequences on our influence than a diplomatic circular.

It is obvious that no considerations can save us from the

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duty of keeping our military and naval strength in the very highest degree of efficiency. Our army and our navy must always be available at a moment's notice in any quarter of the globe. Our Colonial defences must, with the aid of the Colonies, be in an unassailable condition; the Imperial and the Colonial Legislatures cannot afford to stint army and navy estimates. It is by no means a paradox that an efficient army and a powerful navy are our safeguard not only against an invasion but also against militarism, which the sense of insecurity following defeat would be sure to create.

Take a situation which Englishmen must contemplate on a not very distant horizon—England, America, Australia, and India, united by free trade and by institutions which have no other object than to secure to the inhabitants all the blessings of good government, with a minimum of burdens and a maximum of free trade, and determined to maintain these institutions. What will become of the conflicting interests of the armed Continent of Europe when compared with the more peaceful destinies of the English races? Is it conceivable that the sight of the great prosperity which must accrue from these relations will not produce results on the rest of the world? Certainly not. Meanwhile nothing should be done to weaken our power unnecessarily. To preserve the historic headship of the race that has sprung from her will require all the strength of England and Englishmen. The motive power must continue to proceed from us, as it does now. Our literary men, our philosophers, our political thinkers have a sphere of influence open to them superior to all, but we cannot undertake to be the leaders of progressive and aspiring communities and the civilisers of India, and act at the same time as the guardians of the peace of Europe. Do I say that we have no interests to guard on the Continent of Europe? Certainly not; we are directly interested in the maintenance of peace, and the only way to secure peace is by establishing friendly relations with all the Powers, certainly not by allying ourselves with one or other of the Powers, or by even favouring one Power more than another. If the picture given of the existing mistrust between the various Powers is accurate, we lose all the advantages of our position the moment we join any Power—a proceeding on our part which is sure to be attributed to interested motives; whereas, through the very force of circumstances, and through the nature of our Empire, we are the only Power which must, directly and indirectly, become weaker by aggrandisement. Let it once be clearly understood that our policy is strictly defensive, taking the word defensive in

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its widest interpretation—viz. that we will hold with an iron grip, against any Power venturing to harass us, our Indian or Transatlantic route, our Indian or African frontier, or any part of our dominions—and the sense of security which this policy will establish must give weight to any advice we may tender.

Let me add that small but distinct nationalities which are in danger of unjust conquest, of losing their liberty, should be protected. It is of no use disguising the fact that in the present state of things the weaker Powers of the Continent are in peril, and that their absorption would be a most unrighteous act, and entail the loss of our best friends, who are also the representatives of our constitutional principles. It would be difficult to find two countries better governed, making steadier progress in all the arts of peace, than the Netherlands and Belgium. For the solution of some great unsolved problems in the management of our local affairs I am not sure that we could have recourse to a sounder experience than that afforded by the local representative institutions of those two States; and as regards our Indian financial difficulties the financial administration of the Indian possessions of the Netherlands affords most valuable material. In free trade the Netherlands are the only Power who have realised the sanguine hope entertained by Cobden. Can we forget the ties which connected Scotland with the United Provinces, and the asylum they offered to the victims of our civil dissensions?

The prevailing tone on this subject of the exponents of the policy of the Great Powers is not encouraging. The idea of adjusting their differences at the expense of the weaker Powers is not definitely abandoned. The weaker Powers—it is declared in language more or less guarded—are a source of danger. The existence of every State depends on its means of defence; those who are not able to defend themselves offer a cruel temptation whenever a treaty of peace has to be concluded or a war is to be avoided. Such arguments are not fit to be advanced in a court of law; but then an international tribunal does not exist, and the consciences of nations are not powerful enough to restrain their passions, and when these break loose 'might is right;' and that maxim becomes the supreme law of conduct. This emergency cannot be overlooked. In the case of Belgium we have pledged ourselves by no uncertain guarantees. The Netherlands and Belgium are both fortunate in the ability of the leading statesmen of all political parties, who, on questions of national independence, will have no difficulty in acting in concert. That these two monarchies should of their own accord

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combine their powers of defence to give them a maximum of efficiency seems to be a legitimate and natural end to compass. There are no inherent difficulties; it is a natural incidence of their position, and one that cannot give umbrage to any other Power, unless it be prepared to plead guilty to nefarious designs. If it be true that the weakness of the smaller States is a constant danger to the peace of Europe, any means to remove or minimise this danger are legitimate. If the Scandinavian Powers and Spain and Portugal wish to do the same, we should not withhold from their Governments our co-operation. To strengthen our cordial relations with these Powers cannot weaken us, as an alliance with one of the great military Powers must inevitably do.

The idle dream of perpetual peace and concord between the various Powers of Europe should be set aside, because it is sure to postpone the realisation of what it wishes to establish. Let us accept the facts as they are, and deal with them, not in a fanciful, but in a manly way. A day may come for an idyllic and romantic school of politicians. It is not the day in which we live. Fortunately we are able to hold our own. All that a foreign Power may hope to do is to draw us into an adventurous course, alluring us by our well-known foibles or generous instincts into the defence of interests which are really our interests only, if we are to enter upon a mission of international knight-errantry.

There is a further danger of which we should not lose sight. There is no immediate fear of its arising. But the extraordinary development of English power which must be the result of husbanding our resources and of consolidating a complete moral union and understanding between all the component parts of the British Empire and the United States, *may* (I do not say must) lead to an opinion on the Continent of Europe that such a fabric, though kept together merely by the pursuit of material prosperity in its highest form, and by the abundance of safeguards to liberty of individual thought and action, is too threatening an approach to what is called a 'Universal Staat.' This would be a mere pretence for an unjustifiable attack; but the existence of these great armies, coupled with the influence of envy, that master passion in nations as well as in individuals, may lead to very abnormal effects. The political and military tacticians of the Continent could only be tempted to form a coalition against us if the highest order of talent in England were ever exposed to a partial eclipse by a dense haze of crotchets. The tenets of crotcheteers are quite as fatal to peace and to the prosperity of a commonwealth as are the whims of

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an autocrat. History is full of warnings, which cannot be set aside by merely saying that the tendencies of the day are peaceful, in direct contradiction with all that is happening on all sides. Democratic institutions did not save the Republics of Greece and of Italy, nor the French Republic from wars, nor the United States from civil strife. Universal suffrage is not wanting in pugilistic instincts; it sanctions in France and in Germany the military drill of the whole nation, which cannot be meant as a preparation for eternal peace.

If the Continent is bent on exhausting itself by militarism, centralisation, protection, and socialism, we can only wonder. Our social system is at present free from the contagion. It has nothing to fear, if it remains true to itself, and watches carefully all the avenues by which the enemy might enter. If it is not seriously menaced from the Continent, we have to be on our guard against being eclipsed by our own kith and kin. We have laid the foundations of the American, of the Australian social systems. Should those social systems prove more robust than our own; should they give birth to a literature, to an art, to an agriculture, to manufactures more thriving than our own; should they be able to satisfy the wants of the people in a higher degree, then our decadence will begin. They are our rivals, increasing in strength every day; not the armies of the Continent. Their rivalry may, I am convinced, be turned into a source of strength, if their aims and ours coïncide. Prejudice and ignorance might some day cause the tide of resentment—in reference to high tariffs aimed at English exports, coupled with a great influx of cheap foreign and colonial imports—to rise so high that retaliation might become popular in England; but the remedies for dispersing prejudice and ignorance are daily administered in all parts of the world, where English is spoken.

United by free trade, by individual liberty, a glorious prospect is before us, and a much more grateful task than that which Canning contemplated when he said: 'England should hold the balance, not only between contending nations, but between conflicting principles; that, in order to prevent things from going to extremities, she should keep a distinct middle-ground, staying the plague both ways.' We cannot afford to lose our hold over the Anglo-Saxon regions of the world with a view to retain the balance in Europe. The task of our rulers is so herculean; has, since the days of Canning, assumed such extraordinary proportions, that if we are to do justice to our own people, to aid them in settling in all parts of the world, we cannot allow ourselves the luxury of multiplying our centres of action.

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If a Continental statesman asks me whether England does not yield too much to the instinct of isolation, I give him this answer: 'Isolation from your quarrels is absolutely imperative to us, but it is also the best thing we can do for you. England and her Colonies will be a refuge to all who are tired of State despotism and of militarism, and who wish to live under another economy. Power, no doubt, has a tendency to lurk in your big guns, but happily also in strong brains. In your social condition the army and the bureaucracy absorb the best forces of the country. We prefer to see our strong brains at work, not only in the political and military spheres, but also in solving scientific and social problems, in literary and artistic work, not to mention theology and philosophy. Whether, in the long run, your system will not prove weak as against ours remains to be seen. All we ask is to be left alone. You cannot expect us to put our brains at your disposal, to do the work which your own brains are quite as fit to perform. While you increase the number of your officials and of your soldiers we open new channels for our trade; we remove all that cripples the advance of education or of prosperity in the nation. You assimilate your citizens to some abstract ideal which you call State. We strengthen our position by adherence to independent, self-developed principles, which constitute the natural links between the English races. Our Society is nothing but the result of a living and healthy organism, which does not receive its inspiration from Government offices, but which is left to evolve its own destinies by a number of influences, all of which the State cannot and does not wish to control. To the adjustment of these self-acting forces we do not apply our legal machinery, as you do. They are left to adjust themselves. We do not attempt to produce a law-made nation, which meets a Government functionary at every turn. The person in England whose absence would probably be more felt than that of any functionary is the boy who sells the penny newspaper. Whether it is a better thing that a nation should be guided by uninspired writers, by leaders of various schools of thought, than by the depositaries of the secret of the State ideal, may well be left to the future to determine.'

The Anglo-Saxon world is a planetary system in itself. It moves in its own orbit. The voices of Anglo-Saxons all over the world murmur with no uncertain sound what is the duty of English statesmen. Do not seek, they murmur, to adjust the balance of power. Do not attempt to meddle with the internal constitution of other States. Do not pretend to be

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arbiters of the destinies of the world. Do not enter into engagements which are not imperatively required. Do not fetter in any way our freedom, unless freedom itself is threatened. Prevent any attack being made on the independence of the weaker States of Europe. Promote concert whenever and wherever you can, leaving the responsibility of failure to those States who decline to co-operate for a good object, and to ward off perils. Increase the fund of prosperity to be distributed among Her Majesty's subjects in England, in Canada, in Australia, in India, in Africa. Let England and Scotland continue to be—what they have never ceased to be—Parent Homes. Increase their attractiveness, that they may always be looked upon with filial affection. Guide and control our enthusiasm when it might commit us to rash courses. Extinguish old abuses and prevent new ones from cropping up. Invigorate the social system where it shows decay. Remove the obstacles which stand in the way of genius. Give us knowledge for growth, as has been forcibly said. Recognise individual merit wherever it is found. Elevate, not the State, but the individual citizen, who by individual effort strengthens our social system. The respect paid to our scientific men, to our men of letters, to our artists, we consider ennobling to the national life. The great trust we have committed to you is one of constant watchfulness. 'Vigilate, Deo confidentes,' should be your and our motto. We do not wish to establish a cementing bond of union for Anglo-Saxon greatness other than that which we have inherited from our ancestors: a staunch, brave, and deliberate obedience to the precepts of liberty, which are never antagonistic to cautious progress; and cautious progress alone is uninterrupted progress.

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Address

ON

JURISPRUDENCE, AND AMENDMENT OF THE LAW,

BY

THE RIGHT HONOURABLE JOHN McLAREN, Q.C.,
LORD ADVOCATE.

THE Department of Jurisprudence is concerned with subjects of very great interest and importance, and, unlike some other subjects which fall within the scope of the business of this Association, it affects the interests and the well-being of every member of the community. I have felt some difficulty in treating within the limits of an opening address a branch of inquiry which is at once so comprehensive, and so overwhelming in the number and variety of the questions which it offers for criticism and illustration. I have thought that the opportunity afforded to me by the kindness of the Council of the Association of addressing its members, may be most usefully employed by confining my remarks to one or two questions of public interest connected with the development of our national jurisprudence, and my attention has naturally been directed to the heads of inquiry stated in our programme as suitable for discussion in our Department. I propose, therefore, with your permission, to offer some observations on two branches of municipal law—namely, criminal jurisprudence, and the improvement of the laws relating to titles to land. My remarks are not intended to anticipate the discussion of those controverted questions on which Papers will be read in the sectional meetings, but rather to elucidate the principles

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which I think ought to guide law reformers in the investigation of these questions, and, if possible, to induce non-legal members of the Association to aid us in proposals for their settlement.

Two subjects connected with criminal law administration have lately engaged the attention of jurists and public men—the establishment throughout the United Kingdom of the system of public prosecutions, and the preparation and enactment of a criminal code. In Scotland the prosecution of criminals has always been recognised as one of the duties of the State; and our criminal law administration, which has been matured and perfected by the experience of many generations of Crown lawyers, possesses the confidence of the public, and satisfies the requirements of the country.

In recommending the study of the Scotch Criminal Administration to the attention of English jurists I do not wish to represent it as an absolutely perfect system, nor do I think that it could be extended in its entirety to the sister country, with its enormous population and complicated local institutions. But the principles of Public Criminal Law Administration must necessarily be the same for both divisions of the Kingdom, and these principles can best be studied as exemplified in practice under a departmental system which has stood the test of experience.

The practice of the Scotch criminal department might form the subject of an interesting contribution to the proceedings of the Association. In this address I shall only touch upon it, with the view of indicating the essential elements of a good general system of public prosecutions applicable to the United Kingdom.

The chief merit of the Scotch system is that it accords in large measure independence of action to the local prosecutors, while it ensures responsibility to the State, by placing them in direct and daily correspondence with the central department of the Crown office. For the purposes of jurisdiction the country is divided into four circuits, each under the direction of a practising barrister, and in each county there is a Procurator Fiscal, or public prosecutor, usually a practising solicitor with one or more assistants. The Procurator Fiscal is appointed by the Sheriff subject to the approval of the Secretary of State, and holds office for life. He enjoys, therefore, the same independence of local influence which the law rightly accords to judges and magistrates. At the same time he is required to report all cases, except police offences, to the Crown counsel of his circuit, who decides whether the case is to be prosecuted, and if so, in what court. The Advocate Depute or counsel of

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the circuit in cases of difficulty or importance consults with the law officers of the Crown, who are responsible to Parliament. The duties of the Procurator Fiscal include the investigation of all cases of sudden death or accident resulting in injury to the person, whether arising from criminal negligence or accidental causes. Under this system the investigation of criminal offences and the proceedings preparatory to criminal prosecution are placed beyond the control of popular influence in the local sense, while subjected to strict official supervision and to the control of public opinion acting in accordance with the Constitution. The conduct of prosecutions is entrusted to the same officers. The Procurator Fiscal conducts personally the prosecution in the Sheriff's Criminal Court. The Advocates Depute, assisted, when necessary, by the law officers, conduct the prosecutions in the Court of Justiciary, or the Supreme Criminal Court, upon information furnished by the Procurators Fiscal for the respective counties, who get up the cases and attend as solicitors at the trials.

In extending the system of public prosecutions to England, the problem is, how to take advantage of the existing local machinery and to subject its officers to departmental control while maintaining as far as possible their local independence. In theory the criminal jurisprudence of England imposes upon the injured party the obligation of prosecuting offenders before the proper court—the judges of the High Court of Justice, or the Quarter Sessions, as the case may be. But the investigation of the cases and the preparations for trial are to a large extent and in the great centres of population almost entirely left to the police, who, I believe, perform the duties entrusted to them with fidelity and efficiency. Solicitors and counsel are of course employed to conduct prosecutions in court, and, as I understand, their professional fees are paid by the Treasury in cases where the police are the prosecutors. If I were to attempt to carry out the Scotch system in England in a form suited to existing arrangements, I should make a beginning in the larger counties, by separating the functions of Chief Constable and Public Prosecutor, giving the latter office to a solicitor, and making it part of his duty to conduct prosecutions before the Quarter Sessions. The next step would be to assign the conduct of prosecutions at the assizes to a single counsel for each circuit, instead of dividing the briefs as at present among the younger men practising on the Crown side of the Court. The prosecuting counsel would in important cases be consulted before the trial, and after the profession had become accustomed to the system of public prosecutions, the prosecuting counsel would

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be associated in a legal department and made responsible for the general criminal business of their respective circuits. A step has already been taken towards the organisation of this department of the public service, by the appointment of a director of public prosecutions for England; but I have not heard that this new department proposes to adopt the Scotch system, and I do not know of any question on which an expression of opinion from this Association might be productive of more useful results than this question of public prosecutions. It certainly strikes a Scotchman as singular that English lawyers should be engaged in investigating this problem upon first principles, as if it had never been attempted before, when if they would look north of the Tweed they would find it practically solved to the satisfaction of the community, and with the result that private prosecutions are as completely affairs of the past, as those private wars which flourished under the social conditions prevailing in Scotland until the middle of the last century.

If English lawyers have much to learn from our system in the department of Criminal Procedure, Scotchmen may with advantage receive instruction from the eminent jurists of England, with reference to the consolidation and codification of the criminal law. The criminal jurisprudence of Scotland is, like the common law of the sister country, founded on custom and the decisions of the judges. No authoritative statement of its principles has ever been promulgated in writing. Its definitions are to be found in the commentaries of judges and advocates; its sanction is supposed to be the conscience of the community; its classification of offences is purely arbitrary. Arbitrary punishment, in fact as well as in name, dominates the whole category of criminal law in Scotland, with the exception of those crimes, now practically reduced to one, which the common law punishes by death. The elasticity of the criminal law of Scotland has been much vaunted by our judges and jurists; my professional sympathies incline me to their view, and I hold with my profession that our judges and commentators have done their work well. But, as a citizen, I cannot forget that this elasticity of the criminal law has in past times and possibly within the memory of living men, been an instrument of the grossest oppression. Men have been tried and have suffered proscription and exile for taking part in public discussions such as are carried on not only with impunity but with acknowledged advantage in the political assemblages of our own time, and even at the sittings of this non-political Association. I will venture to say

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that if the learned Paper on Parliamentary Representation which was read last year in this department of the Social Science Association had been spoken at a public meeting in Scotland eighty years ago, the author would have read with great alarm the deliverences of the learned judges with reference to the criminality of attempts to alter the constitution of Parliament as by law established.

My reverence for our national system of criminal jurisprudence must not blind me to the fact that an unwritten criminal law, with its attributes of elasticity and adaptability to new forms of crime, is not peculiar to Scotland. Such a system once existed in England, and very distinct traces of it remain to this day. Some of the most ordinary offences are in England indictable at common law, though the practice is to found the charges upon statute in almost all cases. It is rightly held in England that the administration of the criminal law will most commend itself to the approval of the honest and law abiding portion of the community, when the judge is in a position to point to the very statute which has been broken, and when the public, by comparing the evidence with the statutory definition of the crime and its appropriate punishment, can satisfy itself that the law is justly administered and the punishments suitable to the offences proved. It has been well said that a code is the ultimate form of every good system of laws, although the development of a system of jurisprudence may be retarded rather than advanced by its premature crystallisation into a code. I agree with those who think that the laws of the United Kingdom have gained in symmetry and completeness from the large influence which our system accords to the opinions of judges. I agree that the basis of any really useful code must be the customary and judge-made law of the country. No better illustration of this truth can be given than the example cited by Sir Travers Twiss in his address delivered last year to this department of the Association. I mean in the passage where that eminent lawyer explains that the success which attended the French Civil Code, and its adoption, with slight alterations, by the Parliaments of Italy, Belgium, and Holland, is attributable to the fact that this code is founded upon the customary law of Western Europe originating under the Frankish Empire. I am not sure that in this country we are ripe for the enactment of a civil code. But I need hardly say that there are some branches of jurisprudence which come more rapidly to maturity than others; and our criminal laws, which are generally of a simple character, have doubtless attained to that stage of development at

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which it is desirable that they should be revised and embodied in a permanent form. I shall not occupy your attention by recounting the various attempts which have been made by the English jurists of our time to bring about this desirable result. Our Government has at length taken up the subject seriously, and a Commission, consisting of some of the most eminent judges of England and Ireland, submitted in their final report to Parliament a complete Code of Criminal Law and Procedure, which was brought in and, if I mistake not, read a second time, in the session of 1879. The code, which was drafted by Sir James, now Mr. Justice Stephen, has been generally approved of by the legal profession and the press, and there can be little doubt that it will, substantially in its present form, become law, and will supersede some hundreds of statutes which now exercise the ingenuity of lawyers in England and Ireland.

I ventured to remark, in opening this subject, that the lawyers of Scotland had something to learn from the profession in England and Ireland; and, if I may be allowed to do so, I would earnestly invite the consideration of my friends who are interested in Scottish jurisprudence to the question whether the new Criminal Code, the biggest product of the legislative activity of our times, should not be made applicable to Scotland. I have had occasion, as part of my official duty, to study the proposed code and its various clauses, and I protest I can see no reason, nothing even approaching to a reason, for depriving Scotland of the benefit of a measure which has been recommended to Parliament as a great legal reform for England and Ireland. I have already considered the question of the comparative advantages of written and unwritten laws; and if you agree with me that the criminal law of a country is that which, of all others, ought to be embodied in clear and authoritative propositions, then the only question is, whether we are to have one code or separate codes of criminal law for the three kingdoms. The question has been already virtually decided for Ireland, with the approval of Irish jurists, and the code is a joint production of a Commission of English and Irish judges. Why should it not be similarly decided with respect to Scotland? The elements of criminal law are necessarily the same in all civilised countries. In countries acknowledging the same sovereignty there must be substantial identity, not only in the definition of what constitutes criminality, but in the punishment appropriated to different crimes. Certain differences no doubt exist, distinguishing the law of Scotland from that of England and Ireland. In so far as

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these are substantial differences they are obviously indefensible. The social conditions of England and Scotland being identical, there can be no reason why an act of negligence or wrong which is punishable in one country should found only a civil action of damages in the other. Our Scotch law treats as criminal the neglect of duty by an engine driver or signalman, whereby the lives of the lieges are endangered. In England a statute has not been made to reach the case, and, unless the crime can be tried as manslaughter or assault, the act of negligence, as I understand, would not be indictable. This is a substantial difference, and ought to be removed, either by indemnifying railway servants in Scotland against prosecutions under this head, or by making negligence resulting in risk to life a criminal offence throughout the United Kingdom. With regard to mere differences of language and form, the public have a right to expect the lawyers of the three kingdoms to settle these matters amongst themselves.

I have heard that the members of the Criminal Law Commission had expressed an inclination to adopt our Scottish term 'theftuously:' and if they would take along with it the Scottish term 'theft,' which some persons might consider good English, the public would not greatly regret the sacrifice of the equivalent term 'larceny.' In exchange I should be prepared to sacrifice my predilections as a Scottish lawyer for 'culpable homicide' and would not be afraid to face a jury with a charge of 'manslaughter.' If the truth must be told we always speak of 'manslaughter' in Scotland everywhere except in court, just as our English friends speak of 'theft' when they are not thinking of an indictment. It is really ridiculous to contend that the trivialities of legal nomenclature should operate as an obstacle to the accomplishment of one of the first duties of the State, the embodiment in a written form of those principles of justice which ought to be universal in their operation, and the violation of which is to subject the delinquent to punishment.

There are some points of general interest raised by the Criminal Code which, if time had permitted, I should have desired to speak to. I shall only allow myself to enter upon one of these—namely, the right of the State to permit, and if necessary require, an accused person to give evidence in his own case. By the practice of France and other European countries a prisoner is examined in open court on the facts alleged against him, and is allowed to give his evidence to facts tending to exculpate him or to disprove the charge. He is not tortured; he gives such answers to the questions put to him

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as he thinks fit. If he is an honest man he will answer truthfully, and in so doing will doubtless favourably impress the jury who hear him. Nay more, he may state facts which no one but himself can speak to, and which, if he is believed, may conduce powerfully to his acquittal or justification. If he is a rogue, he will most likely begin with some improbable story or transparent falsehood; but under the pressure of cross-examination, he will be driven out of his shelter, and in many cases surprised or shamed into speaking the truth. Supposing the examination to be fairly conducted, society is a gainer by the process, because, whether the man be guilty or innocent, truth is elicited, and to reach the truth is the object of the trial. The worst that can happen is that the prisoner invents a falsehood and sticks to it. One must credit the jury, then, with the same power of distinguishing between truth and falsehood which they are supposed to possess in relation to other witnesses, and in the experience of countries in which prisoners are examined in court it is not found that guilty persons escape through juries believing whatever prisoners choose to put forward. The criminal practice of the United Kingdom disallows the examination of the accused in open court, because his evidence is *ex hypothesi* unreliable and valueless, but with strange inconsistency allows his deposition to be taken out of court and read to the jury as evidence against himself. I have not read or heard that any one objects to a prisoner being examined out of court, under the usual caution that he is not compellable to speak, and that whatever he says will be reduced to writing, and if necessary be used against him. Yet most persons who have not reflected on the subject would be startled by the proposal to examine a prisoner in presence of the jury with the same reservation and the same warning. If the jury are to get the man's evidence, why, in the name of reason, should they not get it direct from his own lips instead of getting a translation of it into good English by a magistrates' clerk, taken down behind their backs? What difference does it make that the one proceeding is called an examination and the other a declaration? It is recognised English law as well as French law—at least it is recognised English practice—that we are to question the man and get all the information we can from him without torturing him, and that the results of the operation are to be evidence. To my mind it seems a self-evident proposition that this evidence, like all the rest of the evidence, should be delivered in presence of the jury, that open and public examination is fairer than private examination—fairer to the prisoner, to the jury, and to the justice of the case. That the

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accused would be under a moral compulsion to answer the questions is true; his declinature to answer would damage him with the jury, quite possibly, because it amounts to an admission that he can give no explanation of the facts consistent with his innocence. The State has a legitimate interest to give him an opportunity of making explanations, and he can have no legitimate interest to withhold them. Our practice of taking declarations in private is based on this assumption. One can see a principle for utterly refusing to receive a prisoner's statement. But having agreed to receive it—and to submit it to a jury—is it, I ask, anything but the merest prejudice which prompts us to offer it to the jury in the form of a weak dilution, instead of presenting them with the unadulterated article as it falls from the lips of the prisoner himself.

The Code prepared by the Criminal Law Commissioners offers what, to my thinking, is an unsatisfactory compromise of the question. The proposal is that the accused person should be entitled to tender himself for examination, and should be subject to cross-examination by the prosecutor, but that the prosecutor should not be entitled to examine the accused in the first instance. This is in effect giving an option to the prisoner—not only as to whether he should answer the questions, but as to whether any questions shall be put to him. I see no reason why the feelings of an accused person should be consulted to this extent. It is matter of notoriety that most persons who enter the dock find their way there from some indiscretion of their own; but even if this was not generally true, why should any defendant, guilty or innocent, object to being asked by the prosecution for an explanation of his conduct? That prisoners on trial cannot by physical force be compelled to answer, I grant. But are we, therefore, to accord them the courtesies of war, and to say, in effect, 'Gentlemen of the guard, fire first?' There is to my mind something unreal and almost fantastic in the distinction of making a prisoner competent, but not compellable, to submit himself to examination. Such as they are, however, I do not quarrel with these clauses of the Code, because I am convinced that before they have been a year in operation the inutility of the distinction will be apparent to every one, and that the examination of prisoners will be placed by an amending Act on the same footing as the examination of defendants in civil actions.

Among the subjects proposed for discussion at the present Congress the council has chosen one which should be especially interesting to Scotch jurists—the establishment of a compulsory system of registrable titles to land. In one sense the

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subject is of universal interest, because every one who is not already a proprietor of landed estate expects to become a proprietor some day, at least to the extent of owning the house he lives in. This much may safely be said in favour of land registration, that no country which has had experience of the system would desire to renounce it, or to adopt a system under which the validity of a purchaser's title should depend on the same conditions as the occupation of a hostile territory, confidence in the good faith of the grantor coming in aid of an inefficient espionage into his character and proceedings. In this part of the kingdom we can hardly realise the existence across the border of such a thing as a title to an estate consisting of an unofficial record of the family history and pecuniary transactions of all its owners during a period varying from twelve to thirty years, according to the state of the title. Our records no doubt furnish the same species of facts, sales, mortgages, succession depending on wills and contracts, or on deaths, marriages, and births. But these facts are supplied without application to the other party, and in a form which disarms the inquiry into family history of everything that might be deemed offensive and inquisitorial. A title by registration has, moreover, the great advantage of certainty. No unregistered and latent deed can prevail against the title of a purchaser or mortgagee. It cannot even be said that claimants under prior titles are injured by this rule, because the existence of the rule compels every grantee or mortgagee to register as a matter of course. One no more expects to hear of an unregistered title to land than of a verbal title to land; and the case of the unregistered owner, which has been supposed to be an obstacle to the introduction of the system, is one which under the Scotch practice really never occurs.

The efficiency of our land registers was, within my recollection, very much impaired by imperfections in the mode of indexing the registers, and the consequent difficulty and cost in obtaining a search or inventory of all the deeds affecting a particular property. These imperfections are now in course of being removed by the introduction of the system in use in the Australian Colonies, by which all deeds relating to the same estate or building are entered consecutively in the Index as they are brought in for registration, with a reference to the volume and page in which the documents may be found recorded at length. Our English friends, if I may venture to say so, have cultivated a respectful and distant regard for our system of registration of land titles, but have stopped short of what has been termed the sincerest flattery—imitation. Two

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attempts have been made to introduce registration, both, I am sorry to say, vitiated by the taint of the 'permissive' element. A law which the State approves, but permits its subjects to disapprove, which is obligatory on the Legislature, but which the persons affected may treat with contempt, is, I venture to think, worse than useless. It is in many cases a positive hindrance to efficient legislation. It is always and necessarily a failure, viewed as a means to an object; and the worst of it is that the impression of failure is liable to be transferred to the object itself in the estimation of the public, who do not always consider that a measure cannot be said to have failed if it has never been properly tried.

I do not wish to underrate the difficulties incident to the establishment of a general land registration system in England. But I would respectfully suggest that instead of merely maintaining an office open to the whole kingdom, but which no one uses, it might be worth while to introduce compulsory registration over limited areas, and to extend its operation gradually. You have an excellent registration system in operation in Middlesex and Yorkshire. Why not make these the centres, and, expanding from these centres, take in a county each year until the entire area of England and Wales is scheduled in the registrar's books, and the title to an estate or an acre of land is as certain and as easily ascertained as the title to an allotment of stock? The system can only be introduced gradually, because you have not a staff of competent registrars to begin with, and men must be trained by working at the register of one county, and transferred to others after they have learned their business. Such has been the experience of the Scotch department when introducing the new system of indexing to which I have referred. Although this was nothing more than an obvious improvement on an established system, the greatest caution was used in extending it county by county, with the aid of skilled clerks regularly trained to this description of work.

The great obstacle to the introduction of compulsory registration in England is the apprehended immediate addition to costs of title. Solicitors say that their clients would object to the cost of a registration which would not become effective as the foundation of a new title, until it had been followed by twelve years' possession, while meantime they had to pay the cost of investigation under the old method. If there is any substance in the objection it would, I think, be completely obviated by the State undertaking to register the first deed applicable to any given estate free of charge. The abstract

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upon which the first registered title was settled would be available to subsequent purchasers and mortgagees and would be complete up to date, and the register being compulsory would come in place of a continuation of the abstract for all transactions subsequent to the first. The registers, if begun on a moderate scale and extended to realty as I have proposed, would become self-supporting after the lapse of two or three years.

While the subject announced by your Council for special discussion is that of Land Registration, I can hardly doubt that the larger subject of land tenure will find a place in the deliberations of this department. I must refrain from entering on questions which to me are of the deepest interest, remembering that the business of an opening address is to indicate principles rather than to discuss problems. I shall confine myself here to the statement of one principle of legislation which ought to govern every measure of land reform—a very obvious one, though frequently forgotten by land reformers, which is my excuse for stating it.

My point is this. To prohibit contracts into which parties desire to enter, and which are neither immoral nor hurtful, is not jurisprudence. To compel parties to enter into contracts of one description when they wish to enter into contracts of a different nature, is not jurisprudence. Jurisprudence assumes as its hypothesis a certain relation voluntarily entered into between two or more parties, and undertakes to define the conditions and consequences which flow naturally and equitably from that relation. There are land reformers whose mission it is to abolish 'landlordism.' Others aim at the abolition of tenancy, a third set have declared war against mortgagors of their estates; and mortgagees, if they were not a very useful and influential class, would no doubt also fall under the ban of a sect of economists, if indeed their extinction is not involved in that of the other classes of contracting persons. I am not going to talk politics. My reforming friends may be quite right, and by and by I suppose we shall come to a state of society in which there are neither landlords nor tenants, debtors nor creditors, and where the land takes care of itself. But jurisprudence has meantime to deal with very complex social relations, and as civilisation advances transactions become more varied and more complex. Complex and various as they are, jurisprudence must recognise them as the legitimate product of social development. It would not proscribe a land system because it is intricate, any more than a zoologist would condemn a man because he was a highly organised human being, or cut off his legs and arms to bring him nearer to the ideal simplicity of

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the mollusc. The true function of the jurist, I venture to say, is to encourage the development of every legitimate social relation which men from considerations of convenience have established amongst themselves. It is his duty at the same time to hold the balance between contending interests fairly, and so to mould the institutions of his country that one class or interest shall not obtain a preponderating influence inconsistent with the free exercise of the personal and contract rights of other classes of citizens. We do not propose to abolish landlordism, because to do so would be an arbitrary interference with the free action of individuals; but we do aim at facilitating the acquisition of property by tenants, in order that men, who have sufficient capital both to buy their land and to stock it, may be enabled to place themselves in a condition in which their capital will be best invested. We do not propose to prohibit the mortgaging of land; because it is not for the advantage of the State that a man who can borrow at low interest by giving security should be compelled to borrow at higher interest, nor do we think that by paying higher interest for his loan he will have more money left to improve his land. But we do entertain, as a legitimate subject for the consideration of jurists, whether mortgages should be allowed to become permanent burdens on the land under the mischievous operation of the law of entail, because this is an incident of the contract with which the State may legitimately deal, and only involves that partial restraint on the mode of exercising a right or entering into a contract which every member of society must submit to in return for the protection which society gives to him against arbitrary interference with his actions by others.

I have stated my views on this subject without reserve, because, while I appreciate the value of many of the projects of law reform which have been matured by discussion in this department of the Association, I also feel that if we value our reputation as a scientific association we may render good service to the cause of law reform by endeavouring to define the limits of its application. We may, at least in some cases, furnish a criterion by which persons less conversant with juristic studies may discriminate between progressive and retrograde changes in the rights and relations of civilised society. Where a law ceases to represent the habits, wishes, and tendencies of society it is already condemned; where it is in accordance with those elements of public sentiment it is the duty of the jurist to recognise it, so as to give free play to the social forces which have brought it into operation.

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Address

ON

EDUCATION.

BY THE

RIGHT HONOURABLE LORD BALFOUR OF BURLEIGH.

IN venturing to appear before you as President of the Education Section of this meeting of the National Association for the Promotion of Social Science, I must confess that I do so with very grave misgivings as to my fitness for the place, and with a profound distrust in my ability to say anything on this occasion on the subject of Education to which I dare hope that any here present will think it worth their while to listen. I feel, however, that a frank expression of this feeling will be the surest way of disarming a too hostile criticism, while I certainly desire to have extended to me that indulgence which is never refused to one who, like myself on this occasion, addresses such an audience as I now see before me, for the first time.

I may be pardoned for expressing one thing, which I cannot help having present to my mind, which is that in my opinion the subject of Education as a whole presents perhaps greater difficulties at the present time to one like myself who cannot pretend to speak with much authority on any particular branch of it; it has been so much and so often before the public in recent years, not only at your meetings, but in many other places, and so much has been written and spoken upon it, that, for one situated like myself, it would indeed be difficult to find anything to say which would not be open to the reproach that what was true was not new, and what was new was not true.

On the one hand then, in choosing what should be the special topic of the remarks I should present for your consideration on this occasion, I was met by this difficulty. On the general ques-

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tion I could not hope to rise above what would be mere commonplace to most, if not all of you; while on the other I feel, that unlike many of those who have ably filled my place in years gone by, there was no special part of the subject I could call my own, and on which I had any right to claim for my views a special hearing.

Three years ago, when you last met in Scotland, you had from the President of this section of the Association a very able and exhaustive account of the Education Act of 1872, and the circumstances which led to the passing of it; and it occurred to me that on this occasion, the next on which you have assembled in Scotland, I would attempt to gauge to some extent what has been and what is likely to be the effect of that Act on the education of the people of this country. It seemed to me not inappropriate, now that eight years have passed since that Act became law, that we should attempt in some degree to estimate our gains and losses, and to endeavour, so far as is possible, and so far, perhaps I should say, as my ability renders possible, to strike a balance between those gains and losses, and contrast our position in an educational point of view with that we held before the passing of the Act. Let me, however, once more say that in this respect I pretend to no special knowledge, to no special qualification for the task, and that, in the main, I shall use only information and facts which are accessible to any one who cares to examine the question for themselves. Nor can I pretend that what I have to say will exhaust the question; rather, I trust, it will stimulate others to look into the facts for themselves. One difficulty which has to be encountered by any one who undertakes the task is, that it is by no means easy to obtain anything like precise evidence as to the actual state of matters in the elementary schools of the country prior to the passing of the Act, and certainly not in such a form as renders it possible to make an effective comparison with the ample materials that have been accumulated within the last few years. Prior to 1872, the schools of Scotland were under almost every conceivable kind of management, and only a portion of them were open to the Inspectors of the Committee of Council. Definite information about such as were not inspected has not been preserved, or, if it has, it is not in such a form as to be available for comparison, while the statistics given in the Committee of Council Report, even about those schools that were in receipt of Government grant, is scarcely, if at all, more complete or satisfactory.

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The leading features of the Scottish system of education previous to 1872 are too well known to most of those who are present to need repetition by me. Its advantages and disadvantages have been too often discussed by men far abler and far better qualified for the task than I am, and it is no part of my purpose to attempt to do so on this occasion. A few remarks, however, are necessary on some points of it to give us a common starting point in attempting to estimate our gains and losses under the great change introduced by the Act of 1872. That system, so far as it relates to elementary education, had its origin from the foresight and enlightenment of the leaders of the Reformation in Scotland, and indeed had its commencement at that time. One of its main features, and that by which it was best, most widely, and I may say most honourably known, was the existence in every parish of at least one school open to all, and of which all classes alike might, and until railways revolutionised our means of conveyance did, take advantage to no inconsiderable extent. The principal teacher of this school was usually competent to teach more than the mere elements of education, for he was often one destined for the ministry of the Church who was either spending a few years of his probation in this way of getting his livelihood, or, having failed in getting a charge in the Church, had stuck so far in his career, and settled down as dominie of the parish. From this cause, if from no other, the parochial teachers were as a body possessed of far more culture and a wider range of learning than their compeers in any other country. The system in its main features was well suited to the character of the people, more especially in the means it afforded for the upward progress of clever lads belonging to the lower ranks of society; but it had not the elasticity required to meet the growing wants of the people, and very early in the present century we find efforts being made by the Church, by societies, and by voluntary effort, to extend and supplement it. In the main these efforts proceeded on the same lines as the parent system, though the schools established by them never attracted quite the same class of men as the principal teachers. The parochial schools continued always to be the objects of ambition to the best schoolmasters in the country, and were filled by tried and selected men, to whom exceptional advantages of position and tenure could be safely given.

It was under the most diverse conditions of society that the deficiency earliest began to make itself felt; in the larger

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towns, and especially in the crowded parts of them, on the one hand, and on the other in the most remote and thinly peopled of the rural districts, more especially in the Highlands, where the problem to be solved was how to place a school within reach of a sufficient number of children to make it worth while to have one at all. It was not until after the commencement of the present century that any deficiency in the old scheme, at least so far as the former of these two respects is concerned, was severely felt; but so far back as 1704 we do find the General Assembly of the Church of Scotland appointing a committee to report 'as to an advisable plan for increasing the means of education and of religious instruction throughout Scotland where it may be needed, but especially in the Highlands and Islands and in large and populous cities and towns.' The Commission of Assembly was instructed also to raise a fund and apply it in aid of additional schools; but in 1709 the fund collected was handed over to the Society for the Propagation of Christian Knowledge, at that time recently established, and the Assembly itself does not then seem to have renewed the undertaking. Dr. Gordon, who has published an able account of the Education Scheme of the Church of Scotland as it existed from its commencement, till 1872, relates how, after a lapse of 115 years, the Assembly resolved again to take up the subject, and in 1824 the beginning was made of what became the Education Scheme of the Church of Scotland. From this time the subject attracted very general attention. As the ever-growing needs of the country became more and more pressing, attempts were made to supply them by the Church, by societies, and by individual effort, to which also must be added the Education Scheme of the Free Church of Scotland. I have also seen a statement to the effect that in 1872 there were nearly 5,000 schools, if such they should be called, which were conducted entirely for private emolument, and were known as adventure schools; the majority of these might certainly have been described in words used by your President last year, as 'dames' schools, kept in a back kitchen, where twenty or thirty children were huddled into space not fit for half a dozen.'

The attention of the Government was also often called to the state of matters, and its assistance solicited. In 1835, a memorial was presented calling special attention to the state of education in Scotland. This petition does not seem to have had any immediate result; but after further pressure by the Education Committee of the Church of Scotland, and some

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influential gentlemen connected with Scotland, the Treasury Board came to a resolution 'that the sum of 6,000*l.* should be applied for the purpose of assisting in forming a permanent endowment for a schoolmaster in each of 40 Highland districts.'

Dr. Gordon, in the pamphlet before alluded to, goes on to relate that in 1839 'the Committee of Council proposed the regulations under which grants were thenceforth to be administered in Scotland;' one of which was, that the right of inspection would be required by the committee, in case of all schools aided by public money, and elaborate instructions were drawn up for the inspector, though it was not until 1847 that the system of annual grants in aid took anything like the shape we are now accustomed to. Many of the schools then existing were put under inspection, and by 1871 very nearly 2,000 separate schools were annually visited and reported upon. More than 1,200 of these were in connection with the Church of Scotland, about 500 in connection with the Free Church, about 90 were Episcopalian, and 75 Roman Catholic. It is quite impossible to say what was the total number of schools existing in Scotland, on account of the large number of them which hardly deserved the name. To illustrate my meaning I will quote a description from a memorial presented to the House of Commons which well describes the condition of many of them. 'At the stations where these adventure schools have been established there is often an abundant population capable of taking the benefits of a regular school, and requiring other instructors than they have too commonly found,—a boy, an aged female, a retired soldier, an innkeeper, or a fisherman. For the most part schools of this description are open only in winter, and the teacher of one session is seldom the teacher of the next. His emolument is 9*l.* or 10*l.*, not more in the Highlands, nor more than 3*l.* in Shetland, and sometimes not in money but in produce, and dependent on the liberality of the people.'

I need not trace in detail the steps by which the grants in aid advanced, nor the conditions under which they were given, but I may remark that when inspectors were first sent to schools at all this paragraph appears in their instructions, and that it remained unaltered and was acted on with general if not universal acceptance down to 1872:—

'Their Lordships are strongly of opinion that no place of education ought to be encouraged in which intellectual instruction is not subordinate to the regulation of the thoughts and habits of the children by the doctrines and precepts of

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revealed religion. You will, therefore, willingly avail yourself of the opportunity of examining the religious instruction given in the schools wherever you are invited to do so by the minister of the parish or any other minister of religion connected with the school, or by the majority of the school committee or trustees.'

That, then, is a brief account of the position of matters previous to the passing of the Act of 1872. So full an account of the Act itself was given to this department of our Association by its President at Aberdeen in 1877, than whom no one is more qualified for the task, that I need say nothing upon its provisions. Its result has been practically to abolish throughout the country all the various forms of school management, and to substitute that of School Boards elected every third year by the ratepayers of each parish; while as a necessary consequence all or so nearly all of the elementary schools of the country have become subject to Government inspection and the requirements of the Code, that the minority are hardly worth taking into account. School Boards were first elected all over the country early in 1873, and by the autumn of that year had got into working order; the year 1872, therefore, will be the one most suitable for the purpose of comparison with the results at the present time. According to the statement of the Registrar-General, there were in Scotland in 1872, 629,000 children between the ages of five and thirteen, 494,000 of whom were estimated by him to be obtaining instruction; and though I have been unable to ascertain on what data this estimate was made, it is fair to suppose that all the children attending the adventure schools of every kind and degree of inefficiency would be included. It is of course necessary to make a certain deduction from the total here given for the children of those classes of the population who are not dependent upon, and who do not use, the public elementary schools for the education of their children. The calculation made by the Board of Education in 1873, was that about 68,000 of the children belonged to those classes, so that there remained in Scotland 561,000 children of school age who would be dependent upon the public schools for their instruction. If we suppose that all these 68,000 were receiving instruction, and deduct them from the total here given, it would follow, according to the Registrar-General's calculation, that on the registers of, and in nominal attendance at, the elementary schools of all kinds then existing, there would be enrolled about 436,000 out of the 561,000 estimated to be of school age in the country, or, in other words, about 75 per cent. It would,

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however, be misleading to suppose that anything like that proportion were actually on the registers of schools which could by any means be regarded as efficient. The Registrar-General estimates that in 1879 the number of children in Scotland of the same age had increased to 680,000, of whom 582,000 would belong to the classes of the population dependent upon the elementary schools, and of these there were borne on the registers of inspected schools 508,000, or, in other words, 87 per cent. Another point of possible comparison would have been the numbers in average attendance, but I have found it still more difficult to obtain any trustworthy calculation of the number of children in average attendance prior to 1872; indeed, it was a constant source of complaint that the registers even of efficient schools were very imperfectly kept, while large numbers of the adventure schools did not even pretend to preserve any such record. For our purpose, therefore, in this respect, we must fall back on the statistics of those schools which were visited by the inspectors of the Department, which, so far as they go, will afford a test of the improvement effected on the average attendance of those whose names are entered on the roll by the existence for eight years of compulsory powers. I find, then, in the Report of the Committee of Council for the year 1873, that on the registers of the schools visited by the Government Inspectors during the previous year, there were 280,581 children, of whom upwards of 239,000, or 85 per cent., were present at the inspector's visit; and 220,000, or 78 per cent., had been in average attendance throughout the year. In 1879 the number of scholars on the registers of schools aided by the Department had increased to 508,000, of whom 448,000, or 88 per cent., were present on the occasion of the visit, and 385,000, or 79 per cent., had been in average attendance. If these figures are correct, the result, so far as concerns the rate of the average attendance of those on the roll, is one for which when I entered on the calculation I was not altogether prepared, viz. that although there is now a considerably larger proportion of names on the roll, the ratio of average attendance in proportion to the number so entered has only slightly increased. It is probably not unfair to account for this by supposing that the influx of a large number of the class known as 'compelled' children, with their irregular attendance, has been sufficient to pull down to a considerable extent the average of the whole. It is right, however, that I should mention that after having made the calculation here given, I became aware that, owing to the long winter and inclement spring of 1878–79, the average attendance of children was for

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many months much reduced, the difference between this and some previous years being especially marked in the number of children of the younger ages who were able to make a good average attendance, and I am led to believe that the failure on this account was sufficiently marked to cause an alteration on the whole calculation of 1 or 2 per cent. Even with this allowance, however, it would seem to be established that the last seven years has not produced the improvement in this respect which I think we were entitled to expect. For this reason, I may perhaps be allowed, though it is somewhat of a digression, to ask you to consider these figures of last year's school attendance somewhat more closely. According to the figures of the Registrar-General there would be last year in Scotland, between the ages of five and fourteen, 758,116 children, of whom there were on the registers of the schools visited by the inspectors, upwards of 508,000, and of the schools receiving a grant of 482,000; but, as I have already mentioned, it is necessary to make allowance for those who do not under any circumstances have recourse to this class of schools for their instruction. In the Report by the Committee of Council for last year, the allowance made is one-seventh of the whole, and for my present purpose I will accept that calculation. I would like, however, to say that I am inclined to believe this allowance is too large. We know that in 1871, 88 per cent. of the population were living in houses of not more than four rooms, which may be taken to represent the labouring and artisan classes, all of whom are dependent on the aided schools for the education of their children, while, more especially in the rural districts, where there is often no other school of any kind within reach, the children of persons higher in the social scale continue to use these schools. I am, therefore, of opinion that, whatever may be the case in England, 12 per cent., or one-eighth, would be a more proper allowance to make for Scotland, and it may be mentioned that this was also the opinion of the Board of Education in 1873. There may, however, be reasons for the change with which I am not familiar, which have influenced the Committee of Council, though they are not stated in their report; and for this reason, as well as for greatest convenience in calculation, I accept their estimate. If, then, we deduct those children between thirteen and fourteen, and one-seventh for the reasons stated, we find that of school age, as defined by the Act of 1872, there were in Scotland last year 582,242 children whose names ought to be on the registers of the elementary schools; in fact, there were only 460,000, or 79 per cent., and even that is an increased percentage on any previous year. At

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first sight this does not present an encouraging picture of the result of eight years' compulsion; but, examined more closely, this feeling admits of considerable modification, and if a higher standard of average attendance could be secured of those on the register, there would not, I think, be so much to complain of; if, for example, the first year of school age, i.e. from five to six, be left out, a much more favourable result can be obtained. Of that age there were in Scotland last year upwards of 80,000 children, of whom only 45 per cent. were on the registers; deducting the children of this age from the total of school age, we find that out of 502,000 who ought to have been on the registers, not more than 424,000, or 80 per cent., were actually enrolled.

Between the ages of seven and eleven over 90 per cent. of the children estimated to be in Scotland were on the registers, the maximum percentage being reached between nine and ten, as might be expected, for between those ages the children are robust enough to stand the fatigue of the walk which in country districts intervenes between their homes and the school, while they have not reached the age when their labour becomes available as a means of increasing the family income. From this age the percentage of children on the registers diminishes each way, as one or other of the causes I have indicated comes into operation. Besides the children above enumerated, there were in 1879, 22,000 children between the ages of thirteen and fourteen on the registers of aided schools; and it is gratifying to note that the ratio of children of this age whose names are retained on the registers is increasing yearly in larger proportion than those of any other age, the average rate of increase in the last two or three years being an increase of 10 per cent., though in the pressure of modern life it cannot be expected that such a rate of increase can be long maintained. It is probable that the increase of the last few years is largely due to the increased stringency of the regulations for the employment of children half-time in the Factory Acts of 1874 and 1878. The proportion of children thus accounted for in Scotland compares favourably with the results obtained in England in all the ages except the younger ones—a fact which has often before been remarked upon. It was noticed in the Report of the Schools Inquiry Commission, and since that time in the annual Report of the Committee of Council. The figures for last year in the two countries were as follows:—In England, of every 100 children attending school, 32 were below seven years of age, in Scotland there were only 21; in England between seven and ten there were 35, and

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above ten years of age, 33; in Scotland between seven and ten there were 39, and above ten years of age, 40 out of every 100. I think it is not only to be accounted for by the custom of the countries, but also by the greater prevalence of the custom of providing infant schools under certificated mistresses separate from the other schools, and by the greater nearness to the position of the school of the English rural population; 30 per cent. of our people live in houses that do not form villages containing 300 souls and upwards, and the distance the children have to travel is a fatal bar to their early entrance on school life with any hope of making regular attendance. Bearing upon this point of the sparse nature of the population in many districts, it is worth noting that last year the grant known as the distance grant—that is, the allowance of 15*l.* or 10*l.* to masters of schools so situated that by the nearest roads there is not a population of 300 (or 200) within two miles—was made in no fewer than 598 cases, and the larger grant was made in no less than 350 of these. I see that there is much force in this argument, and I well know from practical experience how difficult it is in the country districts to obtain the standard of attendance that is desirable; but with full allowance for this, and the children who are in attendance at elementary schools not included as aided schools, who cannot amount to more than a very few thousands, it seems to me that there is not a little to be done by the School Board in this direction.

If we turn to figures which enable us to estimate what effect the passing of the Act of 1872 has had upon the standard of instruction in the elementary branches, we find more satisfactory evidence of the good result it has produced; of course the same difficulty meets us as in the matter of school attendance, that prior to 1872 there was no means of estimating the standard of instruction obtained in the schools not open to an inspector; our comparison, therefore, must be taken between the results obtained from the children attending the schools under the Department inspectors in 1872, and those now inspected. In 1872, there were 134,000, or considerably less than half the scholars on the register, presented for individual examination, while of these many were presented in standards far below what their age would warrant, and only 7,214 were presented in Standard VI. throughout the whole of Scotland. In 1879 there were presented for individual examination in spite of the unfavourable circumstances of this year, already noted, 286,000, or as nearly as possible three-fourths of those in average attendance; and though in respect of the age at which each child reaches the respective

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standards, we have not attained to all that could be desired, there is a marked and progressing improvement. Of the 134,000 children examined in 1872, 107,000 passed in the three subjects, while in 1879, of the 286,000 examined, 209,000 had no failure; therefore, although the regulations as to presentation of children qualified by attendance for presentation have become much more stringent, the proportion of children who pass in all three subjects to those who are presented has not greatly altered. The proportion of those who do pass the Government examination, which in itself has become more severe by the standard being raised, has, in relation to the number of the children on the registers of the schools, increased by more than 10 per cent., and this in spite of the great influx of the 'compelled' children, who are usually not such hopeful subjects for education as those who come without the application of that stimulus.

Briefly it may be said that our chief gain is in the assurance which we now have that so large a proportion of the children are attending really efficient schools. Their average attendance is fairly satisfactory, while the standard of their instruction shows a well marked and progressing improvement; by this I mean not only the increased proportion of passes to failures in the elementary work, but the ages at which the children reach the respective Standards of the Code. It is indeed sometimes said, that the cost at which these results have been obtained is excessive; I am not myself disposed to grudge either the outlay on buildings incurred under the Act, or the annual expenditure required, but there are not wanting signs that in some quarters the burden is being severely felt, and it would be much to be regretted if this feeling became strong enough to produce a cry for economy, in preference to efficiency. I need not conceal that the point on which, in my opinion, we have suffered the most severe loss is, that now we have no means of gauging the value of the religious teaching in our schools. I do not intend to discuss the question now, nor am I to be taken as assuming that as yet that teaching has deteriorated. But I am not concerned to deny that, in my opinion, the position it now holds in our schools is nothing short of a national calamity and humiliation.

When we turn to the other branch of the subject, and endeavour to estimate what effect the Act has had on the teaching of the higher subjects, which has always been, and probably must continue to be part of the ordinary work of many of the primary schools, the difficulty of our task is very greatly increased. In the first place, the information we possess as to

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what was really our position in this respect in former years, is even less definite and precise than that concerning the elementary education. We are much more dependent upon conjecture; and, even as regards the basis of that conjecture, it is very difficult to find a common standpoint. It is no part of my purpose to enter into a controversy as to the merits or demerits of the system; it is sufficient for my purpose to say, what I believe no one will deny, that the system as it was suited the wants of the people in an especial degree, and in the facilities that it gave for promising lads to rise from the ranks, at least, it was the admiration of all who examined it. I would remark here, that this is really a poor man's question; it concerns those who occupy a humble position in the social scale more than those in any other rank of life, if for no other reason than this, that it concerns their chance of rising. The possible effect of the Act upon this feature in the Scottish system was eagerly canvassed, and was the subject of much controversy, both here and in Parliament. It was to meet apprehension on this point, that the provision in clause 67 was inserted, which says that 'due care shall be taken by the Scotch Education Department, that the standard of education which now exists in the public schools shall not be lowered, and that, as far as possible, as high a standard shall be maintained in all schools inspected by the said Department.' It will be noticed that this applies to all the schools under the Scotch Education Department inspection, but more specially and particularly to the old parochial schools, the word *public* school being then equivalent to parochial school, though now the same phrase is interpreted to mean any school under a Board, or open to inspection by Government. It is hardly too much to say that, without these words and the guarantee they are supposed to give, the Act could not have been passed in the form in which it stands. Eight years have now elapsed since it became law, and it is my object to consider whether the promise implied in these words has been carried out, and, if not, what is to be the future of the education of the same class of our population who have made such good use in time past of the facilities at their disposal.

First, then, let us see what materials we have for forming an opinion on the value of the instruction in the higher branches given in the parochial schools prior to, and at the date of, the passing of the Act of 1872. It is needless to explain that, by the expression higher branches, I mean the University subjects; for these, with a small amount of French and, still more rarely, English literature, were the only higher subjects known to the parochial schools, and were therefore those in regard to which

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the clause I have quoted guarantees that the standard is to be maintained. All the other subjects which are now embraced in what is known as Schedule IV. of the Code having been since added, no comparison, so far as they are concerned, is possible.

In the year 1854, from statistics of examination of 845 parochial schools, containing nearly 60,000 children, it was found that 650, or 6½ per cent., were examined in Latin, 1½ per cent. in Greek, about the same in French, and about 5 per cent. in Mathematics. From that year onwards, schedules were frequently sent by the Education Committee of the Church of Scotland to get information on this point, and it is believed that a fairly accurate record of the state of matters was obtained. In 1871, in 1,000 parochial schools, having nearly 100,000 scholars enrolled, there were 4,048, or about 4 per cent., examined in Latin, and 435 learning Greek; the report going on to state that in the non-parochial schools the proportion studying the higher branches was in almost every case smaller than in the parochial, but that in the north-eastern counties, where the Dick and Milne bequests exercised a wholesome influence, the proportion examined in Latin would reach fully 7 per cent. In schools other than the parochial schools, the evidence about the higher subjects shows that they did not obtain a place to so great an extent. In 1854, 1,479 of these schools were examined, and of the children in them less than 1½ per cent. learned Latin, less than ½ per cent. Greek, a little over 1 per cent. French, and not quite 2 per cent. Mathematics, while the universal testimony in regard to these schools was that for 20 years previous to 1872, the proportion studying the higher subjects was slowly but surely decreasing. In 1866, just two years after the introduction of the Revised Code, and before it could have had any influence, Dr. Wilson, then and still an inspector of schools, says: 'During the 15 years over which my experience as an inspector extends, the teaching of classics has gradually declined in the schools of my districts.' And again, in his report for 1868, he says: 'Latin is now so seldom met with in the common school, that I have almost ceased to regard it as one of the branches of instruction; this is the more to be regretted, as it is owing not so much to disinclination on the part of the parent to give his son the benefit of a classical education, as to inability on the part of the master to teach anything beyond the merest elements. The case is far otherwise in the schools where the master has had the opportunity of adding the culture of the University to the training of the Normal School.' Dr. Kerr, in contrasting the difference

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in these subjects between the north and south of Scotland, also attributes that difference to the same cause.

There were on the register of inspected schools, in 1878, 468,000 scholars, of whom 2,954 were presented for examination in the 1st stage of Latin; in the 2nd, 1,487; in the 3rd, only 586; in all, 5,027; or very little over 1 per cent. of all the scholars enrolled. These were, according to returns procured for the same year, on the system followed by the Board of Education, which show, first, the number studying each special subject and the number passed in it by the Government Inspector:—

Studying Latin in the

1st stage	7,011,	of whom	1,871,	or 26	per cent.,	passed.
2nd „	2,094,	„	910,	„ 23	„	„
3rd „	1,077,	„	441,	„ 40	„	„

The total number studying was thus rather more than 2 per cent. of the total number given as on the registers of the aided schools. A closer examination of these figures shows that in rural and therefore those districts which are most remote from secondary schools, a much larger proportion go on to the higher stages; from which we may infer that those under the Burgh Boards find that in studying Latin they can spend their time more profitably elsewhere, though it is also probable that the facility with which lads can get employment on railways and in offices has also an effect upon the proportion. These figures certainly point strongly to the conclusion, at least in comparison with the estimate I have given of the state of matters prior to 1872, that, in proportion to the number attending school, the study of Latin was declining in our public or State-aided schools; and compared even with the figures for 1877, which is the only other year for which they have been collected with the same completeness, we find that there is a decided decrease both in rural and burghal districts of scholars who have chosen Latin as one of their specific subjects, but that this is compensated by a very considerable increase in the proportion of passes to numbers studying, and that in all stages. It is, of course, unsafe to generalise from the experience of two years so close to one another; but, before leaving this part of the subject, I may remark, that as regards the information which it gives on this point, as, indeed, on all the specific subjects, the Report of the Committee of Council on Education is very deficient. It only gives the number in each year of children examined by the inspector at his annual visit in each subject, and not the result of the examination. Now it is obvious that, to form a

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trustworthy opinion upon the value of the subject taught, the manner of teaching it, and its relative value to other subjects, we ought to have, not only the number examined in it, but the number studying it, and the number who, having studied the subject, and having been examined in it, have also passed successfully the ordeal of their examination. Both these points of information are included in the return obtained by the Board of Education in the last year of its existence, and again, through another source, for the year 1878; but unless the Department in London now takes it up, this source of information is likely to cease. Of course, it does not follow that because the proportion of scholars who learn Latin is declining it is less popular than it used to be, and that fewer learn it now than ten or fifteen years ago; but, compared with the figures I have given for some of the years previous to 1872, the number studying Latin in 1877 and 1878 is not satisfactory. This is especially impressed upon my mind when I notice the very small proportion who, after taking Latin in its first stage, do not proceed to the subsequent stages —at least in the schools to which these figures refer. You are all aware how much, in years past, our University students have been drawn from among lads who at some time in their career have obtained their education at the public elementary schools, and anything which could be proved really to be placing a barrier in the way of these classes on their road to the University must be the subject of the deepest concern to any one interested in the welfare of the country. Now I am bound to say that I cannot find any evidence that a scarcity of would-be students prepared at least as well in Latin as in former years has yet taken place; on the contrary, some facts which point to directly the opposite conclusion have been placed at my disposal; and though I fear I am trespassing to a most unwarrantable extent upon your patience and good nature in placing so many figures before you, I must plead the great importance of coming to a right conclusion on the point, and give them as they have been given to me; and if I needed further excuse for quoting them here, I would, I think, merely have to say that they are those of Professor Ramsay, of Glasgow University, whose zeal in the cause of education is so well and favourably known to many of us.

Some years ago, he says, that with a view of collecting evidence to assist in solving the vexed question of an entrance examination for the Universities, he determined to institute an examination for the students who desired to enter his Latin class; not, of course, with a view to turn back those who did

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not come up to the required standard altogether, but partly for the purpose I have indicated and partly to enable him most profitably to divide the very large number of students that do enter his class. The examination has been advertised in the Calendar of the University, and the students do to some extent prepare for it. It is a simple one, consisting of grammatical questions, and translating passages from Latin into English, and English into Latin. The students are placed in four classes, the fourth being those who would fail were there an entrance examination to the University. In 1872, out of 173, there were only 5 in the first class, 14 in the second, 69 in the third, 66 in the fourth, 19 being absent; in 1874, there were 23 in the first class, 43 in the second, 69 in the third, 74 in the fourth; in 1875, the results were less favourable, out of a very large class 174 were in the fourth class; each year after this there was an improvement, until in 1878–79 there were 70 in the first class, 65 in the second, 130 in the third, and 86 in the fourth. In 1872, therefore, the number of entrants was 173; last year it had risen to 351. Professor Ramsay also states that few now come direct from elementary schools; a large proportion come from elementary schools, but they pass nearly all to one somewhere in the interval, a very common practice being for a lad to take a year or so at a good secondary school to prepare himself. Out of the 70 in the first class, in 1878, the secondary schools supplied 45, the elementary 20, but only 13 came straight from the elementary schools; among the 86 who formed the fourth class, there were 23 from secondary schools, 20 direct from elementary schools, and 33 indirectly so. Now, I think, that to sum up the result of these figures in few words, I should say that under present circumstances the secondary schools can quite well send up students for this examination; but that it is only under the most favourable circumstances that the elementary schools can do so. Now is it desirable that the public schools of this country should still continue to send students to the University, and on as good terms as formerly? That is the question which we in Scotland have at the present time to solve. It has been possible for them to do so in the past, is it to be possible for them to do so in the future? If possible, is it desirable, in the interests of the students, in the interests of the schools, and of the other pupils attending them? The full significance of this question can best be apprehended by pondering over this fact, that out of 300 students who came up four years ago to enter the junior class in Latin at the University of Glasgow, only 60, or one-fifth

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part, were wholly independent of any employment both in summer and winter. It cannot be too emphatically stated that it is a poor man's question. All other classes of the community can take care of themselves in this matter; and probably, even under existing circumstances, the clever child of poor parents in populous districts which are within easy reach of a good secondary school will be able to fight his way upwards, I will not say with ease, but with as little difficulty as in any other country, and with not more difficulty, as he could have done so in Scotland in years gone by. In the case of those who are not so fortunately placed and in the remote and rural districts of the country, they are in a worse position than they have been before. Not only is Scotland a poor and sparsely populated country, and therefore unable to gather together boys and girls in sufficient number to support good secondary schools, but it has been the custom of the people to rely to a very great, perhaps to an excessive, extent on the elementary schools for the discharge, in regard to their clever children, of functions which are commonly regarded as being more properly discharged by schools of a higher grade. The words I have already quoted from the 67th section of the Act of 1872, prove that it was not the wish of Parliament, as it certainly is not of the people of Scotland, that anything should be done to exclude the public schools of the country from the performance of this work. That the tendency of matters during the last few years has been in this direction, I think no one can doubt. I am not prepared to say that this has been caused wholly by the Act itself, or by the operation of the Code, though I do think that a change, perhaps inevitable, owing to the alteration of many of the conditions of modern life, has in these days been quickened, made more manifest—perhaps, if I may so use the word, accentuated—by the new relation subsisting between the local ratepayer and the teacher consequent on the passing of the Act of 1872, and more especially by the Code, as well in its original as in its 'revised' form, and also the form in which it appears even at the present time. There are a variety of circumstances and influences at work which continue to produce this result; some of these are inevitable, and perhaps not matter of regret, but there are others the advantage of which in themselves is doubtful, and the result almost certainly disastrous to the continuance in its former shape of the higher education meant by the words in the 67th clause of the Act. Among the former class of influences are the necessity now laid upon the teacher of working up all the children alike to one standard. Of course some reach

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this point sooner than others; one or two, whether by natural brightness of intellect, or greater home advantages, perhaps take a decided lead, while most of the others require the expenditure of a greater though not excessive amount of labour to reach the same point; there may be one or two veritable dunces whose sluggish brains and natural indolence require an amount of labour and toil which are totally disproportioned to the results obtained from them. The grant to be earned by the one is the same as by the other, and the excellence of the teacher is too apt to be gauged by his employers solely by small percentage of failures to pass, and the amount of grant thereby earned in aid of the local rate. So far as the mere elements are concerned, and in schools which are certainly for the main body to learn these elements of knowledge, there is no ground for complaint—the school and the teacher are fulfilling their work.

The influences at work of which I think there is some reason to complain are those which come into force under those parts of the Code which relate to the teaching of the specific subjects. There is a schedule of the Code which contains these subjects, in number about fourteen, with the regulations under which it is permissible to teach them, and the stages and rate of progress which a child is supposed to make in them. The list commences with the old subjects of higher instruction, mathematics and languages, dead and living, to which have been added within the last few years other subjects under more or less imposing titles, such as English Literature, Mechanics, Chemistry, Animal Physiology, and others—subjects most useful in themselves, and of ever-increasing interest and importance, though it is at least open to doubt whether they can all be properly taught to boys and girls of the ages we find in the upper classes of our elementary schools. I am not, however, just now so much concerned with the policy of teaching them as with what I conceive to be one result of their introduction into the Code under the conditions and regulations at present imposed—the point which I just now wish to bring home—viz. that their introduction and maintenance under present conditions has done much to place at a disadvantage in our schools the older subjects of 'higher instruction.'

I have already touched upon the indirect, but, I venture to say, very great and very real pressure which is brought upon our teachers to get the best money results out of the children under their charge; the grants given for these subjects out of the money voted by Parliament being equal for all; and, that being the case, we should naturally expect that the difficulty of the subject should be the same, or, if not the same, should at

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any rate bear some kind of reasonable proportion the one to the other. But I ask any one to examine the Fourth Schedule of the Code as it now exists, and see for themselves whether this is the case.

I shall not attempt to examine it now in detail, more especially as the controversy on this question is probably familiar to many whom I have now the honour to address; but if any proof were needed of the much greater ease with which a pass, and therefore a grant, can be got, I venture to think it will be found in the proportion of passes which are obtained in some of the subjects compared with others, taking into consideration the time necessary for their preparation. In the year 1878, the proportion of passes to numbers studying Latin in its three stages was respectively 26, 23, and 40, the gross number of passes being 1,871, 910, 441. In the same year I find that in the three most popular of the new specific subjects, the proportion of passes in all stages was over 50 per cent. I exclude Domestic Economy, which is now compulsory for girls, and take English Literature, Animal Physiology, and Physical Geography. I would like, if you will bear with me once more, to give the exact figures which I have myself collected from returns furnished by the principal teachers in each school for that year. Studying the first stage of English Literature there were, in that year, 18,515 children; in the second, 4,970; and in the third, 1,414; of these there passed in the first, 9,440, or 51 per cent; in the second, 2,781, or 50 per cent.; in the third, 819, or 58 per cent. In the first stage of Animal Physiology, there were studying:—

3,552	of whom	1,831,	or 52 per cent.,	passed		
1,241	„	720,	„ 58	„	„	in the second.
368	„	204,	„ 55	„	„	„ third.

In the first stage of Physical Geography there were

8,232	of whom	3,520,	or 42 per cent.,	passed		
4,003	„	2,131,	„ 53	„	„	in the second.
1,294	„	643,	or very nearly 50 per cent.			in the third.

It is clear, therefore, that not only can a child be put into any one of these subjects with much greater certainty of his passing and earning the grant, than into one of the older subjects, the standard of which it has been made obligatory to maintain, but, on account of this, they possess as a means of grant-earning a still more decided advantage, which is that, being more suited for class instruction, whole classes of children can be taken bodily into these subjects, carried far enough to earn the grant under present conditions, with the expenditure of a very much shorter time than would be possible with the older subjects

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which are more difficult and not suited for this mode of treatment.

I must not be understood to be saying anything against the introduction of these subjects looked at by itself, certainly not against English Literature, Physical Geography, and Animal Physiology if properly taught; but I think it is impossible to resist the conclusion that the manner in which it has been done, and the regulations of the Code as regards the specific subjects as a whole, have done much to contribute to the diminution of the number of pupils who find it possible to proceed from the elementary schools to the University.

I have guarded myself from being supposed to allege that this diminution is to be attributed wholly to the Act and the Code. I have already quoted the evidence of Dr. Wilson, whose long experience entitles him to be heard, to the effect that from 1852, continuing to 1873, he noticed a decline in the number taking the higher branches; and though of course this would only apply to schools under the Department, I am not prepared to say that the old parochial schools were exempted from a movement so general from any cause inherent in themselves; and Dr. Wilson attributes it almost entirely to decline during those years of ability on the part of the teachers to instruct in these subjects—an opinion which gains an addition of considerable strength from the fact that a much larger proportion of children have always taken these subjects in the north-eastern counties, where the operation of the Dick and Milne bequests has always ensured the continuance of a supply of teachers competent to instruct in them, while, on the other hand, the improvement in the status and emoluments of our teachers is one of the most gratifying effects of the passing of the Act. In 1872, the average salary earned by teachers from all sources was only 112*l.*; in 1874 the average was 140*l.*, in nearly every case with a house; while no less than 231 had more than 200*l.*, 98 had more than 250*l.*, and 87 more than 300*l.*—a rate of payment which must attract superior men to the profession, and which combined with the facilities now being offered for the attendance of many of them, and of a yearly increasing number, at certain classes in the Universities of Edinburgh and Glasgow, cannot fail to be productive in the near future of the best results.

Speaking generally then, I think it is fair to say that a variety of circumstances have in recent years combined to injure the teaching of the higher subjects as understood before the passing of the Act of 1872, in the public schools of Scotland. I am not now speaking so much of the numbers who have

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taken these subjects, but of the length to which they can go under the guidance of the master, which for the special requirements of the country districts is at least as important, if not the most important branch of the subject.

If, then, I am right in saying not only that some such change has taken place in this direction, produced no doubt to a great extent by causes which are inevitable in their operation, but still hastened and exaggerated by artificial causes, it would seem that the promise in the Education Act has not been fulfilled in the sense in which it was given and received. Of course it may be said that the change is not in itself an undesirable one, and that if a widening gap between the possibilities of the elementary schools and the just and due requirements of our Universities has been created, some other means than that of retracing our steps to a nearer approach to the old system must be found for the purpose of bridging it over. This would of course raise the question not only of the educational value of the respective subjects in themselves, but also that of their value to the class of children attending these schools. I could not presume to enter upon a discussion of this question in its wider phase, but, as regards the latter part of it, I may perhaps be allowed to offer a few remarks for your consideration. It must of course be borne in mind that by far the largest portion of the children who attend these schools are those whose school age is very short; they do not commence these subjects before the age of ten, most leave school by the time they reach thirteen, and in the case of hardly any does their attendance extend more than one year further. Now it is obvious, that it is of the highest importance to utilise these years to the utmost extent, not only in developing their intelligence while at school, but also in teaching them something that they will be able to carry away, and, if possible, form a basis on which they can lay the foundation of a course of reading in future years. For this purpose, taken as a whole, some of the subjects introduced by the Code are probably of extreme utility—such, for example, as English Literature and Physical Geography, and so far as they are concerned their introduction is a clear gain to higher instruction, using the term in a wider sense than in the Act of 1872. But if it is the case, as there is some reason for believing, that under existing circumstances some of the scholars who would successfully take up other subjects of still greater value, and who have the ability to prosecute their studies in them to the extent of proceeding to a University, are obliged to be content with these from causes which I have endeavoured to indicate, it is impossible

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to deny that a serious loss is liable to be incurred. The other subjects which are included in the Fourth Schedule cannot, with the exception of animal physiology, be said as yet to have been taught, and therefore they must be acquitted from the charge of being in any sense undue rivals to the older subjects; it is, however, matter for the gravest consideration whether it can ever serve any useful purpose to retain them in the Code, or whether they can ever be taught to children of the ages I have indicated, so as to be of use either as a means of education or as a foundation for future work. It does not seem to me that under the circumstances they can ever be more than a mere memory lesson, to be forgotten as soon as it has served the purpose of gaining a few shillings towards the expenses of the school. At its recent meeting the President of the Educational Institute told his hearers that in his experience, and he believed in the experience of many of themselves, it had been found that those pupils who formed the classes in languages and mathematics had their intelligence sharpened to such an appreciable extent, that they were almost invariably able to keep ahead in other branches of their education, and that on this ground alone it would be found worth while to form classes in these subjects.

It must not be forgotten that the older subjects still form the indispensable means, not only for obtaining but for profiting by a University career; and, so long as this remains the case, it will be manifestly unfair to place these subjects at a disadvantage in the primary schools, and thereby fulfilling to the ear, but breaking as regards the spirit, the promise so distinctly given in the Education Act. The problem that we have to solve if that promise is to be really fulfilled is to secure that the humble lad of 'pregnant parts' shall not find it less easy in the future than it has been in the past, for him to climb from the lower to the higher steps of the educational ladder. To secure this end, a variety of means have been suggested. Some advocate the establishment of an extensive network of secondary schools, with or without a system of bursaries; others an extension of the system of grading schools, so that without going too far from home any lad may be able to procure the instruction he desires. Probably something must be done in all these directions; but it seems to me that even then, more especially in the rural districts, the want cannot be wholly supplied without retaining the distinctive feature of our old parochial schools. Much has been done within the last few years to improve the secondary schools of the country, and probably there are endowments amply sufficient to do all that can be done

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in this direction only waiting to be applied to supplement the deficiencies of existing schools, and in some cases to found new ones in localities where at present there are none, and this without contravening the spirit of the original foundation or the delocalisation of the funds themselves; for it is a remarkable fact that of the 175,000*l.* which these endowments are estimated to yield yearly, no less a sum than 112,000*l.* are localised in and around the larger centres of our population, and the rest is well and fairly distributed over the country. No doubt much might be hoped from these schemes, particularly from the foundation of a large number of small bursaries to be held by the children of poor parents at good secondary or commercial or technical schools, with the prospect in the former case of ultimately reaching the University. In using the word 'poor' I mean those who could not otherwise afford to pay the schooling of their boy or girl, however promising, in addition to losing the immediate gain which would result from their employment. There is this disadvantage, that it is not for the best interests of the pupils themselves that they should so far lose the influences for good of home and parental control, as would in many cases result from the carrying out of this plan. It is also impossible to imagine anything more disheartening to a master, or more likely to lower the tone of his school, than to have all the best scholars taken away from him just when he had begun to take most interest in them, and to feel most pride in their work.

I cannot, therefore, conceal my opinion that all these plans, excellent in themselves, will never wholly serve the purpose, or do that particular work which was done in former times by the old parochial school; and though the difficulty to be encountered is greater in the remote and rural districts, still it is of no slight importance over the whole country. Primary and secondary instruction must therefore continue to overlap, I will not say in all, but in a large proportion of our aided schools, if for no other reason than this, that boys or girls of ability must first be found and must be given a chance of showing what they can do; and this can only be done by the usual course in the elementary school, whether it be in town or country, being advanced to some extent beyond the mere elements of education. Not only is it necessary that this should be so, but it is positively advantageous to both to carry on side by side primary and secondary education, certainly to do so far enough to develop taste and capacity for still higher work in the best scholars. As I said just now, unless they get the chance of showing what they are capable of in the primary

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schools, by far the greater part of our boys and girls will never get the chance at all. It is not only as a matter of justice that this chance should continue to be given, but as a matter of public policy. The power to profit by a higher education is not the gift alone of any particular class in society; and as the classes who use these schools so far out-number those above them in the social scale, so it is the case that these gifts must be met with more frequently and be more widely distributed among them. It is difficult to estimate what Scotland would have lost in the past, and what it would certainly lose in the future, were this source of education to be closed. I cannot but rejoice that on an occasion, when questions of so much interest and so much importance to the country have been chosen for discussion as lie before us on the present occasion, I should have been chosen to occupy the position I now hold; and I have only, in conclusion, to say that however inadequate my claim to that position may be, and though I cannot hope to have contributed much to the general information, at least I may say that to myself this meeting will not be wanting either in pleasure or in profit.

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Address

ON

HEALTH.

BY

JOHN BEDDOE, M.D., F.R.S.

THE occupation of this honourable position affords me very great pleasure, by reason especially of the very high estimate I have always formed of the usefulness of this section of the Association.

Of the peripatetic societies of Britain (to use a convenient and descriptive nickname) there are three which deal with subjects more or less scientific, in a manner mainly prospective rather than retrospective or historical, and with the object of promoting the public good in several ways—I mean our own Association, the British Association for the Advancement of Science, and the British Medical Association. Now, the territories claimed and cultivated by these three somewhat overlap each other. Thus in the British Association there exists a Section of Economic Science and Statistics, which has lately been doing good work at Swansea, under the presidency of our old friend Mr. Hastings, but to whose existence in former years certain objections had been raised by sticklers for the rigid definition of the term 'science.' By those who successfully strove for its preservation stress was laid on the number of the eminent men whose sympathies and co-operation were thereby retained for the British Association, and on the advantage gained by the contact and friction of minds diverse in quality of attainments and in modes of activity.

In this section the advantage claimed is far clearer and more decided than in the one I have been speaking of. Physicists and

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physicians, engineers and lawyers, may all meet here to confront the same problem from so many different points of view, and to throw upon it so many different kinds of light. We physicians may, perhaps, sometimes be tempted to think that questions relating to public health belong in a peculiar way to ourselves. But we find here the value of the assistance which the engineer and chemist can give us in combating the evils we have discovered, and from lawyers and public men we learn how to free our ideas from class prejudice, to render them more acceptable to the general public, and, when necessary and feasible, to develop them into laws. A purely professional class, such as physicians are, has great difficulty in impressing its convictions, however strong and however valuable and disinterested, upon the popular mind: class moves are distrusted, and sometimes deservedly so.

What, then, is the duty of this section? To ascertain the condition of the public health, and the measures, whether in the nature of Governmental action or of private exertion, which are likely to maintain and promote it.

By a good state of public health we may understand, without unduly stretching the meaning of the term, not merely a low rate of mortality, but a high average of vigour and capacity for labour, physical or mental, in the individuals composing the nation; and if that average be high we may expect it to tell not only in lessening the rates of mortality and sickness, but in diminishing crime and poverty, and increasing the diffusion of comfort, happiness, and perhaps even virtue.

In speaking to-day of contemporary modifications of public health I shall ask you to direct your attention more to the probable causes of these changes than either to their nature and extent or to the means available for increasing or repressing them.

These changes, then, are mostly dependent on the advance of material civilisation, on the increase of population, and on its consequent aggregation in large rapidly-growing towns. Still working backwards, we trace them to the remarkable development of mechanical invention which characterised the latter part of the last century and the beginning of this one, and which coincided with the rise and rapid growth of the new science of chemistry. The invention of the printing press did more to stir men's minds, but that of the steam-engine has had much more effect on the conditions of their bodily existence; and it is especially in the country of its birth that this effect has been most conspicuous, aided as it has been by our insular position and our abundant stores of coal and iron

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ore. Thus it has come to pass that whereas little more than a century ago we were in the main a nation (I include Scotchmen as well as Englishmen) a nation of yeomen, farmers, and cultivators, shepherds, fishermen, and the like, dwelling more dispersedly over the face of the land than in almost any other civilised country, having scarcely any large towns, and rather avoiding congregation even into villages—retaining, in fact, something of that old Saxon aversion to being huddled together which speaks in the proverb, 'God made the country, but man made the town'—to-day, on the other hand, we are of all peoples the one with the largest proportion of townfolk to countryfolk; our capital is not only absolutely the largest city in the world, but is the largest relatively to the country of which it is the head; and we possess at least three other cities which in population, though certainly not in beauty, may rank among the first twenty in the world.

To return to the causes and stages of this change, and their action on men and classes of men. Economy of labour led to accumulation of capital, and to the association of labour on a large scale, and to the specialisation and minute subdivision of employments. The influence of this last alteration on the health of the workman has never been thoroughly worked out. If not counteracted by some extent of general education or opportunity for employment of leisure, it must apparently tend to dwarf both body and mind by the unbroken monotony of action. I believe that it does do so, and that it increases the temptation to drunkenness and sensual excesses. There has, of course, been a great decrease, not only relative but absolute, in the numbers of the two classes, viz. farmers and agricultural labourers, which, with the possible exception of clergymen, seem to stand highest in respect of physical health and longevity. But there are sundry outdoor occupations favourable to physical development, as those of quarrymen, carters, and excavators, which number more largely than before. Certain subdivisions of these classes are very migratory, and do not marry so frequently as town artisans; and their offspring, when they have any, are apt to be degenerate. The village artisan, on the whole a useful and healthy element in the population, has also died out, or, to speak more strictly, has migrated to the town and become a journeyman, earning, perhaps, a larger income, but wearing out more quickly. The increase of facilities for locomotion has created a new occupation, that of railway employés, healthy in most of its conditions, but subject to a high rate of mortality, due to its extreme liability to fatal accidents. The growth of the professional

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classes, of those who live by their brains rather than their muscles, of those who minister in various ways to wealth and luxury, and who dwell almost exclusively in towns, has been very great, and most of these are very liable to those three most potent insanitary agencies of our time, hurry, worry, and intemperance. Among artisans a good deal of labour has been transferred from the open air to within doors, and for the risks of inclement weather have been substituted those of foul and rebreathed air. The constantly advancing substitution of machinery for handicraft has led to an enormous development of the coal and iron industries. These employ a vast mass of men, among whom the death-rates from accident are high, and those from disease considerable; but their rough and laborious mode of life, as I have said elsewhere, brings them much under the operation of natural selection: they multiply fast, and produce a hardy if uncomely and uncultured race.

The introduction of gas-lighting, and, to a less extent, that of rock-oil, have led to a great increase of nocturnal labour, which is also favoured by the requirements of the capital invested in machinery. The effect, if it had not been mitigated by legislation, would probably have been very destructive to life and health. Nocturnal labour usually implies labour in heated and foul air, and of an exhausting kind; and, even apart from that, the health-statistics of policemen and others who work in the night seem to indicate that the natural periodicity of functions cannot be interfered with with complete impunity. It is not, perhaps, chimerical to expect that the cheapening and practical application of the electric light may make a considerable change in the conditions of some kinds of labour. The influence of light on vital action is in this country almost always favourable, and I am not aware of any evil resulting to man from the prolonged daylight of the Arctic Circle; but we can draw no conclusions bearing on animal life from Siemens's interesting experiments on the effect of the electric light on vegetation; for, as Buckle pointed out, the two kinds of life do not attain their highest vigour or perfection side by side, or under similar conditions.

To the nature of the houses in which the people live we can hardly attribute too much importance. In the early part of this century there were very great provincial differences in this respect, but by far the larger part of the population is now housed in dwellings of comparatively recent erection, and approaching in some degree towards a uniform type. Contrast, for example, the average Highland hovel, built and managed on the principle that 'the

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clartier the cosier,' but which, if small and dirty, was usually warm, and in which much-needed ventilation was provided—unintentionally, indeed—by the numerous chinks in the walls; contrast this with the Cumberland house: large, roomy, and clean, but apt to be cold, and only prevented from being colder still by the almost hermetical sealing of the windows. The worst kinds of tenements in large towns, and notably in the wynds of Edinburgh and Glasgow, combined the worst features of both these, the dirt, the crowding, and the want of ventilation; while there were favoured districts known to me in the South of England, where the cottages, generally half-timbered or built of *pisé*, were at once warm, dry, roomy, and tolerably clean.

The subject of modern houses for the working classes—how they are built, and how they ought to be—has frequently been debated in this section, and would furnish material for a dozen addresses such as mine. I will make but two or three remarks on it in passing. Landlords, whether from philanthropy and a sense of duty or influenced by public opinion, have done much to improve the dwellings on their estates, and speculative builders have, to some extent, been coerced by Building Acts and bye-laws; but I do not think the improvement is so great as is usually supposed. If it were, one would expect to see a decided improvement in the death-rate from phthisis, from pulmonary diseases, and from rheumatism; for warmth, dryness, and proper ventilation ought to act favourably upon all these; whereas, in fact, if phthisis has decreased, other pulmonary diseases have quite made up the difference; and there is no improvement in rheumatism. I should say that, as a rule, the requirements of decency are more studied than they used to be, and that, perhaps, dryness of site and foundation is more looked to; moreover, by the persistent action of medical men and sanitarians, including many names well known in this section, so much has been done for water supply and sewerage and disposal of refuse that the great scourge of enteric fever is being gradually abated; but thin walls, bad mortar, and flimsy roofing cannot make warm and dry houses.

One curious and unexpected result of building improved cottages has been brought to my notice. I am informed that in a certain Highland district where the proprietors have exerted themselves to build decent and air-tight dwellings for their small tenants, crofters, and labourers, instead of any improvement in health following, consumption, formerly uncommon, became very rife and deadly. Similarly the natives of New Zealand, though their ordinary mode of lodging is about as ill-contrived

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and unwholesome as can be conceived, are said to suffer in health, and specifically to become more phthisical, when they take to living in houses of the European pattern. In the case of the Highlanders it is probably want of ventilation which is the fault of the new and comfortable houses. On the whole, it would probably be well to adapt to cottage-building the primary rule of British politics, correcting the evils of the local type of dwelling, whatever it may be, rather than seeking to introduce an entirely new one.

The present Earl of Derby, in an address delivered to this Association several years ago, recommended that the difficulty put in the way of constructing workmen's dwellings in towns by the exorbitant price of sites should be met by increasing the vertical elevation of the buildings. And we see that the elevation of buildings is constantly being increased, though not so much in the case of workmen's dwellings as of upper class houses, hotels, and warehouses. The change is not one to be commended. A street 50 feet wide, with houses 80 feet high, is scarcely more pervious to sun and wind than a lane of 20 feet, with houses of 32 feet. The population on the same area will probably be about the same; and Dr. Farr has shown us that, *cæteris paribus*, the rate of mortality increases as the density of population. Lofty staircases tell unfavourably on the health of those who frequently ascend them; hence the anæmia and functional affections of the heart which are the plague of London housemaids. And there are other evils connected with over-lofty houses well known to the citizens of 'Auld Reekie.'

Respecting what is probably the most important of all the agencies which have favourably modified public health in recent times, viz. the improved cleansing of towns and villages by means of sewers or otherwise, I will only say a word or two. One remark I would make is, that we should not be surprised or disappointed if a slight relapse in the death-rate should occur within a few years after the introduction of an improved system of town drainage, when other morbid causes begin to tell upon weakly lives that have been saved from perishing by zymotics. Another is, that the restriction of the term 'preventable diseases' to those controllable by cleanliness, disinfection, and quarantine is likely to turn away people's eyes from a great deal of good work which might be done to prevent other kinds of disease.

Take for example phthisis. Many years ago, I remember, Sir Charles Hastings informed me that in Worcestershire phthisis was endemic on the clay soils, and comparatively rare

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on the gravels and sandy loams. Since then Doctors Buchanan and Bowditch, in England and in Massachusetts, have demonstrated the connection of this disease with a damp subsoil. The death-rate from it has pretty certainly diminished in our days, though not quite to the extent indicated by the Registrar-General for England's returns; and the great extension of agricultural drainage may share with improved medical treatment the greater part of the credit. In this case the pecuniary interest of the proprietors has led them to adopt an improvement which, as an incidental result, has benefited the public health. Unfortunately, no such pecuniary interest is visible (I do not say it does not really exist, but it is not visible) to the manufacturers who defile the atmosphere of our populous districts with smoke, and thus largely increase the pulmonary death-rate.

There can be little doubt, moreover, that the great and steady improvement which has taken place during the last generation in the death-rates of young persons of both sexes, between the ages of five and thirty, is due in great measure to the diminution of diseases other than those generally called preventable, such diminution being brought about to a great extent by the more or less enlightened action of politicians and philanthropists, and the education of public opinion. As a rule children—I do not say infants—are better fed, clothed, and cared for than they used to be; schools are better built, ventilated, and regulated; there is more consideration and protection for those who cannot protect themselves; and the spirit of our factory legislation has penetrated further than its actual enactments. There are those who think that these enactments extend too far—those who are so enamoured of liberty that they would demand in larger measure the liberty to hurt themselves and others; but it is difficult to believe that such persons have looked at the facts from the point of view of the sanitarian or the statistician.

I have already mentioned the law laid down by Dr. Farr, that mortality increases in towns with density of population. There is considerable difficulty in stating exactly the degree of aggregation in any given town, as the municipal areas vary greatly in their relation to the actual space built upon. On a small scale the method invented by, I think, Professor Gairdner may be useful: he ascertained the exact area of small districts of which he had procured a census, first by mensuration of the map, and afterwards, as a check, by weighing the irregularly shaped portions of a map which he had cut into sections. I mention this to indicate the nature of one of the prac-

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tical difficulties inseparable from this kind of computation. There is, however, no doubt that in the rough Dr. Farr's rule is correct. And it may be extended further than it was by him. Even in rural districts, whether in England or in Scotland, the sparser the population the lower, generally speaking, is the death-rate. Most of the apparent exceptions occur in those mountainous districts where lead-mining, a form of industry notoriously prejudicial to health, draws away the male population from purely agricultural or pastoral pursuits.

Differences of climate, in the ordinary sense of the term —differences, that is, which depend on latitude and longitude, prevailing winds, and amount of rainfall—seem to have little to do with the matter, however much, Mr. Haviland may show us, they have to do with particular diseases. The favoured districts are most numerous in the North of Scotland and on both sides of the Border, it is true; and these are the colder parts of the island; but they are also the parts where population is most scanty. The points which seem to be really differential, beside the degree of aggregation, the occupations and habits of the people, are the soil, drainage, and water-supply; and these are happily more or less capable of amendment where bad, for even stiff clays yield somewhat of their vicious damp to deep and judicious drainage. First of all, however, in importance, I must repeat, stands the degree of aggregation, of contiguity of man to man. Men seem in this climate and country to be most healthy where they see least of each other, where they produce and convey the least infection; in fact, where the proportion borne by man to nature is the most insignificant. Wherever a town exists, whether it be an old one, whose decaying houses stand on a soil pestiferous with the accumulations of generations, or a brand-new one, thrown together by greedy speculators, as regardless of the laws of health as the artisan inhabitants are ignorant of them—in either case that town is a focus and centre of disease and mortality.

Physical degeneration—or, to speak more definitely, diminution in stature, in bulk, in aptitude for military service—is also, so far as Great Britain is concerned, an affair of the towns; but it does not necessarily march *pari passu* with the increase of mortality and disease, nor depend upon precisely the same causes. Thus I found, on a comparison of the boys of a certified industrial school with those of a day industrial one, that the latter, though more scantily fed and worse lodged, were physically better developed. In Belgium, Quetelet found that the stature of citizens slightly surpassed that of peasants at equal ages. Perhaps this was partly because in Belgium, as

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elsewhere on the Continent, the upper and professional classes live more exclusively in the towns than is the case in Britain. Partly it may have been due to the freer operation of natural selection, and to a lower marriage-rate among the city proletariat, who here are so prolific. The problem whether citizen communities reproduce themselves permanently is, I believe, unsolved, and its solution is becoming a matter of moment for ourselves. Does the enhanced mortality of cities strike more heavily the seasoned native or the new country immigrant? I am disposed to believe that it is the immigrant that suffers most, and that there is such a thing as acclimatisation among the lower classes of towns. If it be difficult to trace it among the upper or burgess class, that may be due to some special hindrances, such as the constant rising and falling in wealth and in the social scale which affects the class; the tendency of those who rise to join the rural aristocracy, and of those who sink to emigrate and disappear. It is commonly said that it is not possible to find a third generation of pure native Parisians; but, on the other hand, the Italian noble families, who have generally dwelt in the cities, show a permanent vitality; and the Jews, who have dwelt in towns, and eschewed all rural occupations, for so many generations, show no signs of dying out, but multiply and thrive. It would be a laborious but not, I think, a very difficult task to work out from the registers the problem as it concerns the Irish community in some one of our cities; but I have never had sufficient leisure to undertake it.

Let us now look around and try to make an estimate of our present position as regards public health.

We are in a state of transition, as has already been pointed out, from a rural to an urban mode of life; and we may reasonably expect to find physical changes going on among ourselves, as a result of the various alterations in our surroundings and conditions.

Perhaps the modifications of our mortality statistics are smaller than might have been expected. The average duration of life may be very slightly increasing, the death-rates of infants stationary, of females at most ages and of boys and young men decreasing, of men about and beyond middle age increasing.

The physical type is altering, and that not merely by intermigration and mixture of blood. It is probably on the whole deteriorating. At least there is some reason to believe that the townsmen are diminishing somewhat in stature and bulk, and that the average size of the head is smaller in the present than in the passing generation. On these points we shall

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know more when the Anthropometric Committee of the British Association shall have come to an end of its labours.

It is probable that bodily infirmities, such as disqualify for military service, are on the increase among us. Such at least is the opinion of recruiting officers, which, however, cannot be accepted unreservedly, inasmuch as so many more lucrative occupations are open to strong and healthy men that they probably do not see a fair sample of the population. A collation of the French statistics tends to lend support to the unfavourable view, for among the departments Morbihan, a thinly-peopled and decidedly backward agricultural district, yields the smallest proportion of rejections for infirmities, while the Nord and the Seine Inférieure, two of the great manufacturing centres, yield three times as many rejections, and stand close to the bottom of the scale. In Belgium, East Flanders occupies, I believe, a similar position.

Some of the most formidable of diseases are diminishing in fatality. Thus phthisis, as already remarked, is lessening in prevalence, it would seem, owing to improvements in drainage and in some of the conditions of life, and lessening also in fatality, owing to improved medical treatment. Enteric fever is gradually yielding to the exertions of our sanitarians, and smallpox has given way considerably owing to the Compulsory Vaccination Acts. These Acts belong to a long series of measures, such as the Factory and Adulteration Acts, which are due to the recognition of the principle that it is the right and duty of a Government to care for the health of the people.

It is much to be regretted, therefore, that during the past session of Parliament a Vaccination Bill of a distinctly retrograde character was hastily introduced by Her Majesty's Government—a Bill enabling refractory and wrong-headed persons, on payment of a single small fine, to defy the law and keep their children unvaccinated, thus not only exposing such children to great risk of disfigurement, blindness, and death, but providing so many possible foci of infection for their reasonable and law-abiding neighbours.

There was much force and meaning in the humorous suggestion of Sir William Jenner, that worthy inheritor of the illustrious name, that the Government, if really bent on currying favour with the groundlings by this mischievous course, should save time and trouble by selling licenses to keep children unvaccinated, and thus spread the small-pox. Such licenses, though producing the same amount of mischief to life, health, and beauty, would at all events not have the dis-

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advantage of publicly exhibiting the futility of the law and bringing its administration into contempt.

Of the amount of resistance encountered by the present law some idea may be gathered from a return made to the House of Commons in March last, on the motion of Mr Otway. The number of persons imprisoned for contumacy up to that date had been 87, and the number of those fined 3,929. Only 614, or a little less than one-sixth of the total number, had been proceeded against more than once, of whom 563 had been fined; 349 had been fined more than twice, 167 more than thrice, 93 more than four times, 49 more than five times, 32 more than six times; and 14 persons had been imprisoned more than once.

It is pretty evident from this list that, while the dread of a single fine would have scarcely any effect on an ignorant, careless, or misguided parent, the system, as now administered, of repeated small fines at intervals sufficient to give a *locus penitentiæ*, produces the desired effect in all but a very small minority of cases. And the last fragment of a reasonable ground for hesitating to put the law in force, the last shadow of an excuse for hesitating to obey it, has been removed by the official provision of a supply of vaccine matter from the calf.

Meanwhile, just when we in Britain are threatened with this reactionary measure, we learn that the Japanese Government, always eager to copy the best European examples, have introduced a Compulsory Vaccination Act.

Leaving now the consideration of diseases which, like small-pox, are diminishing, let us turn to such as are becoming more common and more formidable. Of most of these the increase is supposed to be attributable to the greater complexity and struggling character of life, the increase of hurry and worry. They are chiefly affections of the heart and of the nervous system, and the change for the worse is notable especially in men—men in the autumn and summer of their lives—as Mr. Welton has shown in more than one statistical paper. I should have been tempted to enlarge on this part of my subject, had it not recently been handled with so much ability by Dr. Crichton Browne, in his address on Psychology to the British Medical Association—an address the whole of which, but especially that part which deals with the principles of education in relation to cerebral physiology, I take the liberty of commending to your perusal. Dr. Crichton Browne is of opinion that not merely the nervous temperament but the neurotic diathesis is on the increase among us, and that the

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growth of actual insanity, which official statistics affirm, is not merely an affair of figures, of laws, and of estimation, but an actual fact. In this opinion he is backed by that accurate observer and cautious reasoner Dr. John Sibbald, and to it I am inclined to adhere.

But we are come together not so much to inquire into the exact condition of the public health as into the practicable methods of ameliorating it. Three ways of doing this are before us for special consideration during the present meeting, viz. the best modes of organising and officering our sanitary forces, the best ways of applying their work to existing buildings, and the best ways of preserving or restoring the purity of our streams and water-supplies. I shall not presume to enter on these questions in the few minutes that remain to me; but I would like, before we separate, to say a few words on what may be done towards the improvement of dwellings and of schools.

As for dwellings, though the multiplying of enactments is bad, and the multiplying of officials is worse, increasing expense and making openings for jobbery, I am disposed to favour a moderate extension of legislation, especially in the direction of prohibition of what is certainly known to be mischievous or unsafe. Thus it seems monstrous that men should be allowed to build new houses within ordinary flood-mark, as has been done in hundreds of cases within my own knowledge of late years. There are other offences against the laws of nature which are so clearly proved to be such that they are almost criminal, such as carrying a soil-pipe under a house, or placing a water-closet in the middle of it, neglecting to trap a main drain, and so forth. Surely the perpetrator of these things ought to be held responsible in purse or in person. When an overworked or muddleheaded signalman or pointsman commits a blunder which has fatal consequences, he is amenable to the criminal law; much more should the artisan be so who by scamping his work brings death into an unsuspecting household. I cannot agree with those who say that the public, the house-tenants, are generally indifferent to these things, because they avoid putting themselves to an expense they can often but ill afford in investigating their house-drains for the sake of a doubtful benefit.[1] I should say that among the upper and middle classes at least there is a great though vague horror of 'bad drains;' but they have not usually the skill nor the power to protect themselves, the mason's and plumber's work, good

[1] In Edinburgh and the neighbourhood this difficulty seems now to be met by the Sanitary Protection Association.

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or bad, being covered up or concealed. Few principles in building seem to me more valuable than this: that the whole work connected with the drainage of a house—sinks, soil-pipes, ejects, and so forth—should be so placed as to be readily inspected and investigated. Meanwhile, as the public are incompetent to protect themselves, it seems to me that the liberty of builders and plumbers to do mischief should be closely restricted.

Nevertheless, after all this has been done it will continue to be necessary to educate the community (I will quote here a Cincinnati sanitarian, Dr. Minor) 'as to the necessity that exists for guarding against those special causes of disease due to the collection of large numbers of people on limited areas. The possibilities of public hygiene,' he continues, 'depend on such education; and to promote it should be one of the main objects of health authorities, whether municipal, State, or national; for without it they have no firm foundation in a country having either a republican or a democratic form of government.'

Of the need for such education in Cincinnati we may judge from the fact that a large part of the city drains into the Ohio river above the public waterworks.

In this country, at present, local government works pretty fairly, the lack of education being supplied by the control of a central body, which can avail itself of the knowledge of the best experts; but, in view of the progress of democracy, Dr. Minor's advice as to the sanitary education of the masses becomes more important.

But education is needed in many matters pertaining to health which concern individuals rather than the public. The need of ventilation in houses is one of these.

Dr. Gregory was accustomed—so Sir Robert Christison tells me—to carry, when on his rounds, a good stout cane or stick; and when he had to visit a case of fever among the poor of Edinburgh this stick was very apt to be carried in a horizontal position. So the end of the stick was very apt to poke itself through the window; and the window was very apt to remain unmended until the termination of the case, when the worthy Doctor would send a glazier.

I must ask your patience while I say a word or two on the hygiene of schools. Something has been done for this, but more remains to be done. For example, the systematic production of myopia (of short-sightedness) should be stopped. In truth the due balance of the μουσική and γυμναστική, the mental and physical education, has hardly yet been reached:

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and, looking at the matter from the hygienic point of view, though I allow that in some upper class schools athletics are made too much of, I do not think the best is done for the physical development of the rising generation. In some directions restriction of natural liberty is carried, I think, too far. The lamented Miss Carpenter, towards the close of her life, had come to dislike the system of boarding-schools for the children of the poor, and to consider it at best a sort of *pis aller*. She was thinking chiefly, no doubt, of the moral results; I am looking at the physical ones. I have already mentioned a fact which may be valuable, if corroborated—that I find the scantily-fed gutter-children of a day industrial school superior physically to the well-fed ones of a well-managed boarding industrial one. I have little doubt the same superiority would be found in the workhouse children who are boarded out over those who are kept *en masse* in workhouse schools. No less an authority than Mr. Edwin Chadwick once gave, in a Presidential address to this section, the weight of his opinion in favour of the schools, resting it on the low mortality obtained in some of them—so low, I believe, as three per thousand. Well, this *is* a wonderfully low death-rate; but it is obtained by keeping the children, as regards infection and disease, in an expensive glass case; and I suspect that in the course of a year or two after they are turned out into the world they would be found to experience a high and compensatory mortality, and to fail especially in hardihood and in self-management.

I spent my autumnal holiday this year in a thinly-peopled district of the Western Highlands, with some statistics of which I have been favoured by the Registrar-General for Scotland. The population—which, though poorly lodged, enjoys, it would seem, in no common degree the blessings of health, happiness, and innocence—suffers a mortality under 15 per thousand, of which one-tenth only is due to phthisis, and one-fifth consists of deaths of persons over eighty years of age. Boarded out among the peasants are a number of the young pauper children of Glasgow, whose healthy appearance compares fairly with that of the young Highlanders; and I believe that the habits of labour and economy, the insensible training of the faculties of observation, forethought, and self-reliance, acquired in the free and varied life of that pure atmosphere, are likely to develop them into far more healthy and useful members of society than herding together under the necessarily Procrustean system of a large boarding-school.

One last word on athletics. The athletic movement may

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be a necessary counterpoise to the bookish one, with its too early competitive struggles, which threaten already, according to Crichton Browne, to increase fatal brain disease among our youths. But it has the same disadvantage as a purely classical education. It may give power and discipline to the body, as classics do to the mind; but neither of them has much immediate or direct usefulness; neither of them, as a rule, trains the student for his future work in the world. And this apparent fruitlessness and want of object disgusts some of the best minds among boys, and reacts unfavourably on the rest, actually indisposing and unfitting them for plodding practical work, generating a craving for excitement, and thus laying them open to various temptations.

A half-time arrangement of some sort is desirable in lower-class schools, as much so in agricultural as in manufacturing districts. And the way in which Mr. Ruskin's ideas about making bodily exercise useful were taken up at Oxford showed the feeling among the flower of our youth, that something of the kind was needed to produce and maintain sound minds in healthy bodies.

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Address

ON

ECONOMY AND TRADE.

BY

SIR UGHTRED JAMES KAY-SHUTTLEWORTH, BART.

TWO years ago at Cheltenham, Professor Bonamy Price, occupying the position in which I now unworthily succeed him and the President of this year's Congress, entered an able and interesting protest against the tendency of political economists to give a rigorous scientific form to their teaching, and to couch this scientific teaching in language as remote from that of common life as the technical words of the mathematician and the chemist.[1] Perhaps the warning was necessary and well-timed. At all events the field of useful work which Professor Bonamy Price claimed for the economist is large and wide, and the functions and duties of political economy will be sufficiently practical, according to his theory of its place, to interest men engaged in the business—private, trading, or public—of every-day life. Political economy, he said, 'is an investigator in a special but subordinate field of research. It explores a definite subject, a separate and limited department of knowledge. That subject is wealth and its phenomena, its production and its distribution.'

Its mission is 'to combat and drive off false theory, which is ever invading the processes known to and practised by natural sagacity,' and to refute false theory 'in a manner that shall convince a whole people.'

Thus the search of the economist is 'after truths which are of extreme importance for the welfare and happiness of society and of every one of its members' . . . . and 'the results

[1] See *Transactions*, 1878, pp. 120, 121, 133.

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it obtains must be combined with the truths established by other departments of knowledge.'

Necessarily, therefore, political economy, viewed in this practical light, and applied to this extensive sphere of work, must enter into the consideration of many questions of jurisprudence, of health, of education, and of other departments of social science. And the section of Economy must not be convicted of trespass, because it treats from time to time subjects which have been or may be discussed, perhaps even more fitly, but probably from a special point of view, by the jurist, the educationist, or the student of some other section of this society. In this respect social science closely resembles physical science, of which it is not only true that each branch—so to speak—overlaps others, but it has also been established, by the researches of Faraday, Grove, Tyndall, and the rest, that the great forces of nature are *correlated*, and are all different forms of motion. The co-operation and correlation of economic, moral, and physical forces formed the subject of the address of one from whom I inherit much of my interest in these subjects, when he presided over your Education section at the Glasgow Congress in 1860.[1]

Availing myself of these theories of the right of the economist to invade to some extent the territory of his neighbours, and to survey their fields from the point of view of his own studies, I propose to-day to touch upon points, connected with the distribution of wealth, which have hitherto mainly fallen into the hands of your Jurisprudence and Education sections.

Jealous as the economist has been of the waste of various forms of private and national wealth, perhaps he has left too much to the other sections of social science the burden of the fight against the waste of resources left to us by bygone ages for public and philanthropic purposes. Yet no subject, in my opinion, is more worthy of the attention of this economic section. For political economy can both teach lessons to the living philanthropist, and show the legislator how to avert the waste of the wealth which has been or shall be left in the form of charitable endowments.

That 'waste begets poverty' is an axiom alike of economy and common sense. And yet we allow waste to go on under our eyes; we allow pauperism to be created, and independence undermined; we allow money left for the poor to be applied for the sole benefit of the rich; we look on while lawsuits or abuses

[1] 'Sir J. P. Kay-Shuttleworth's Address,' *Transactions*, 1860.

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absorb the whole income of a charity, without taking any sufficient precaution to prevent these evils from arising again and again with respect to the endowments left by the present and future generations. Underlying the neglect of which we are guilty, in omitting to provide against the recurrence of such evils, is one of those false theories which Professor Bonamy Price says it is our mission as economists to refute. It is the theory of *strict perpetuity* for charitable foundations—a theory supported neither by fact nor common sense, nor by law which abhors perpetuities, and directly opposed to the principle that permanent institutions can only be created subject to the condition that they be liable to such modification as every succeeding generation of men shall find requisite. 'This principle,' said the Popular Education Commissioners in 1861, 'has been acted on ever since the Reformation, but it has never been distinctly expressed. Founders have been misled, and the consciences of timid trustees and administrators have been disturbed, by the supposition that at least for charitable purposes proprietorship is eternal; that the land on which its rights have once been exercised can never be relieved from any of the rules and restrictions which have been imposed on it; that henceforth it is subject and ever will be subject to the will, not of the living but of the dead.'[1]

Whatever may be the real origin of the name 'Mortmain,' Sir Arthur Hobhouse's phrase of 'getting rid of the dead hand' is a valuable one, and expresses bluntly the sound principle that the living generation must exercise a control which superstition has left to the dead. Yet if the dead themselves could visit the foundations or inspect the charities to which their money is applied, would they be content with its administration? William Bower left a gift for teaching the children of Bridlington to card, spin, and knit. Sixty years ago Brougham's Commissioners found that no children had been taught nor had wished to be taught for a long time past. Roger Brettridge in 1683 left land in the county of Cork for the purpose of making payments to 'seven poor old men, of the Protestant religion, in the asylum, that had been soldiers and were unable to work,' and the surplus was to be applied in apprenticing the children of 'poor Protestant soldiers' in the city of Cork. The charity is 350*l.* per annum, and, as enough Protestant soldiers cannot be found in Cork, a fund of 2,300*l.* has accumulated.[2] The men who left funds in perpetuity for such purposes were as unable to foresee the march of events as those who left

[1] *Popular Education Commission Report*, i. p. 476.
[2] *Irish Commission, Report*, 1879, p. 4, quoted by Kenny, p. 161.

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property for ever to redeem English slaves from the Moors,[1] or to exempt their parishes from paying fifteenths, or to relieve imprisoned debtors,[2] or to pay persons to go about the church awakening sleepers and turning out dogs, or to provide bulls to be baited, and Bibles to be raffled for.[3] Besides these kinds of results of the impossibility of such prescience on the part of the dead as would have enabled them to foresee wise modes of giving their money in perpetuity, there are innumerable examples of endowments given with the best intentions, but for such objects that they either defeat their own intentions and benefit the wrong persons, or else do positive harm to the people whom the founder intended to benefit. Both of these effects are found in the case of doles. Sometimes they attract to the favoured parish from the country around the most shiftless and pauperised population:[4] thus the foundation becomes, as Chalmers says,[5] an 'adhesive nucleus,' round which the poor accumulate and settle, misled by vague hopes of benefits which, in most cases, it will fail to confer on them. Sometimes this influx of strangers raises the rent of houses and lodgings by an amount exceeding the value of the dole, which, instead of relieving the poverty of the poor, thus increases the riches of the rich.[6] Where the recipient of the dole is an out-door pauper, the dole only reduces the poor rates and subsidises the rich,[7] upon whom about four-fifths of the rates usually fall.[8] And yet the real effect of a dole, almshouse, or charity on a parish may be—as in the case of Etwall, in Derbyshire, investigated by Mr. Martin, or that of Salisbury, examined by Mr. Hare, or that of many of the Parochial Charities of the City of London[9]—to increase the class of persons likely to live at the expense of others, and thus by collecting a pauperised population to add to the amount of the poor rate.

Mr. Gladstone, in his celebrated financial statement in 1863, cited numerous cases of 'valuable' charities, which according to the evidence before him were 'not so very valuable.' Here is one.[10] A 'Mr. Jarvis died in 1793. He left about 100,000*l.*

[1] Kenny on *Endowed Charities* (Reeves & Turner), 1880, pp. 17, 173, 32nd *Report of Inquiry Commissioners*, 2, 451.

[2] Kenny, p. 173, 40 & 41 Vict. c. 49, s. 58, and *Report for* 1879 *of the Board of Bequests.*

[3] Kenny, p. 174.

[4] *Schools Inquiry Commission, Report*, i. p. 216.

[5] *Christian and Civic Economy*. Works, xv. 98.

[6] Kenny, pp. 44, 45, 48; *Popular Education Commission, Report*, i. p. 517.

[7] Kenny, p. 45.

[8] *Ibid.*, p. 180.

[9] Sir A. Hobhouse's *Dead Hand*, pp. 210, 211, and *City Parochial Charities Commission, Report* (1880), i. p. 7.

[10] *Dead Hand*, p. 40.

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for the poor of three parishes in Herefordshire, to be given in various ways, for physic, food, clothing, and so forth. . . . . The population of these three parishes at the first census after Jarvis's death, taken in 1801, was 860; and in 1851 it was 1,222. What was the reason of this increase of population? Had employment increased there? No. Had trade come there? No. Had manufactures been established? No. Were wages higher in these parishes? No; they were lower by 2*s.* a week. Were the dwellings good? No; they were the most miserable and scandalous, so we are informed by authority, that disgraced any part of the country. But the people went into them, and went into them naturally enough, for it was in order to wait for the doles. For those gifts, which by Jarvis's mistaken and misguided benevolence were distributed to them, pretty nearly doubled the estimated gross income of the agricultural population of those parishes. That was for people in such a rank a splendid, an intoxicating inducement. But was it wise? Was it good for them? Or, again, was the evil only an economical evil? Did the morals of these poor people improve? The statement of the authorities who have investigated the case is this, that the morals of these parishes were such as they were forbidden by common decency to describe.'

I am not particularly fond of arguments based on obedience to the founder's wishes, yet if the founder of the Bedford Charity in the reign of Edward VI. could have been consulted on the state of things discovered by the Poor Law Inquiry Commission in 1833, and by the Schools Inquiry Commission more recently, would not he have been the first to desire such a reform as that which has lately been effected? His 40*l.* a year had grown to 12,000*l.* a year, of which 3,035*l.* were in 1868 'spent on marriage portions, apprentice fees, almshouses, and doles. The doles were voted by the town itself to be injurious; whilst the marriage portions and apprentice charities were reported by the Schools Inquiry Commission as being at the best a waste of money, and probably worse.[1] The charity income, their Assistant Commissioner reported,[2] colours and determines the whole life of many in Bedford. It bribes the father to marry for the sake of his wife's small portion; it takes the child from infancy and educates him in a set form; settles the course of his life by an apprentice fee; pauperises him by doles; and takes away a chief object of industry by the prospect of an almshouse.'[3]

For most of these illustrations, and for much other assistance, I am indebted to the admirable monograph recently pub-

[1] *Report*, i. p. 530. [2] *Ibid.* i. p. 531. [3] Kenny, p. 50.

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lished by Mr. Kenny, on Endowed Charities.[1] Mr. Kenny disposes ably of the argument that few men will be content to give property to charities if they cannot anticipate with any confidence that it will permanently be devoted to the purposes they have defined. This argument is weighty if confined to the repulse of the proposals of those who would treat endowments just like so much ordinary property of the State, and not merely maintain the *right* of the State (which I for one should not dispute) to divert charities—but also advise the *policy* of applying them—to whatever purposes the public opinion of the moment might suggest, without any regard either for the founder's original directions, or for the doctrine of *cy-pres*. The adoption of such a practice would doubtless deter many benevolent persons from leaving funds for philanthropic purposes. But this argument, that the revision of charitable endowments would discourage bequests and foundations in the future, cannot be maintained against the extremely moderate measure of revision, proposed, I believe, by Mr. J. Stuart Mill, and advocated by Mr. Kenny.

As a matter of fact, founders now-a-days, having before them such experiences as I have cited of the waste, or uselessness, or positive mischief of bequests left by our ancestors, sometimes take precautions to ensure the revision of the endowments they create. Sir Joseph Whitworth's splendid gift is an instance in which the wise donor has thus guarded his endowment, not from the possibility of diversion from the precise object he is encouraging, but from the more real danger that that object may become obsolete, or that the conditions, and even the appropriation of the gift, may require change. This is an example in support of the opinion of the Scotch Universities Commissioners of 1826–30, who said:[2] 'We are not disposed to think that such legislative provision (i.e. power to modify endowments) would deter any person from making bequests to the Universities; on the contrary, we are disposed to think that in many instances such donations will be made with much greater confidence as to their utility, if a power shall exist to regulate the application of such donations in the manner that may be most useful.' The Oxford Commissioners of 1852 express similar views, adding:[3] 'The sight of charities abused, and secured in their abuses by being placed beyond any remedial power, would be much more likely to damp the ardour of a philanthropist than the sight of charities cautiously and wisely reformed.'

[1] Kenny on *Endowed Charities* (Reeves & Turner, 1880).
[2] *Report*, p. 76. [3] *Ibid.*, p. 160.

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Moreover, as Sir A. Hobhouse points out,[1] in other countries people are not deterred from giving to the public by the knowledge that when they have given they cannot remain owners of the gift. And Mr. Kenny draws 'attention to the still more significant fact that whilst, during the last forty years, so many public commissions have pressed, and so many legislative enactments have adopted, with steadily increasing boldness, the policy of deviating from the directions of founders, this period of our history has witnessed no diminution of public munificence, but, on the contrary, a remarkable revival.'[2] Thirty-five or forty years ago, that age and the preceding century were credited in Parliament by Lord Stanhope and Mr. Charles Buller with but little beneficence or posthumous charity. 'Yet only a generation has since elapsed,' says Mr. Kenny, 'and the munificence of the Elizabethan age has already revived.' And he cites the half-million of Mr. Peabody; the 300,000*l.* of Mr. Gardner for the blind; also gifts of a quarter of a million each: to the Kirk of Scotland, by Mr. Baird; to the Episcopal Church of Australia, by Dr. Tyrrell; to the cause of woman's education, by Mr. Holloway; and the bequest of 200,000*l.* to the charities of Glasgow, by Mr. John Ross; besides many others.[3] These facts support the theory that, if endowments were wisely administered by each generation for its own best interests,[4] noble and generous men would bestow their goods at least as freely as heretofore. Indeed Mr. Kenny shows that more than one-eleventh of the whole charity income of the country is the creation of recent founders—founders since the year 1837—and he regards this fact as 'a noteworthy proof that the introduction of an active system of supervision and revision has served to stimulate, instead of repressing, the zeal of founders. This becomes still more manifest if we consider that a large portion of the other ten-elevenths of income consists of unearned increment which has accrued since the foundation of the older charities, and consequently that the actual sums originally given by the founders before 1837 cannot really have been even tenfold as great as those given since 1837.'[5]

The prodigious growth in the income of many old foundations suggests very important considerations. The Royal Commissioners appointed to inquire into the Parochial Charities in the City of London have reported this year many extraordinary instances of such increase; instances where the

[1] *Dead Hand*, p. 122. [2] Kenny, p. 190.
[3] *Ibid.*, p. 190. [4] *Dead Hand*, p. 122.
[5] Kenny, p. 137.

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receipts have 'within the last few years doubled and even trebled in amount.'[1] The practical comment which Sir Farrer Herschell, now Solicitor-General, makes—with the concurrence of Mr. Pell, M.P., and the Rev. William Rogers, two of his brother-Commissioners—on such cases as these deserves your attention. Sir F. Herschell says:[2] 'I think that where a small foundation, created for a particular purpose, has, owing to accidental circumstances, enormously increased in value, and can no longer be applied in strict accordance with the terms of the foundation, it cannot fairly be inferred that the founder, if he had foreseen this increase, would have desired that the increment should be used for the same or even similar purposes to those for which he destined his original benefaction. It seems to me that, without violating any principle, these funds may properly be applied to whatever purposes, and in whatever proportions, may be deemed most advantageous to the community.'

The magnitude of modern gifts, and the vast increase in the value of older foundations for charitable purposes, seem to me an ample justification to the economist for applying his attention to this department of the national wealth, with a view to helping the Legislature to avert, for the future, the dangers of waste—and worse than waste—dangers to which experience has opened our eyes. The 'Digest of Endowed Charities,' completed by the Charity Commissioners in 1876, shows the gross income of charity endowments to be[3]—

	£
From land	1,558,251
From personalty . . .	640,213
Total . .	2,198,464

And on May 16, 1879, the Charity Commissioners[4] estimated that 'the present amount of the income of the charities may be taken to be little short of two and a half millions.' This does not include the value of lands occupied or kept 'in hand' by charities, nor endowments not subject to the Charity Commissioners, such as ecclesiastical, university, college, and cathedral endowments, and many others, nor certain undiscovered charities.[4] In 1876, the charities founded since 1837 numbered 4,805, with a gross income of 226,952*l.*; while the income of

[1] *Report*, i. p. 6. [2] *Ibid.* i. p. 13.
[3] *Parliamentary Papers*, 1879, No. 272, p. 16.
[4] Kenny, p. 139.

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the charities reported on in 1837, had, in less than forty years, increased by more than half a million sterling[1] (524,039*l.*).

With the possibility before our eyes of a similar increase within the next forty years of three-quarters of a million a year in the already enormous income of these classes of endowments, the economist and the politician should surely consider whether systematic rules for the supervision and revision, by law, of the funds given and left for public uses, are not at least as necessary as the measures that have been from time to time adopted by Parliament to investigate abuses and waste in our older endowed charities, and to reform their administration and employment. For a time a charity is perhaps useful, or may be, at least, a desirable or legitimate experiment; it next often arrives at a stage of apparently harmless uselessness, but, therefore, of waste; or the experiment becomes out of date, or proves a failure, or worse, becoming too often a fruitful source of pauperism, or even of immorality; and yet, almost always, nothing can be done till, after two or three centuries of time, some scandal awakens the public to a sense of the necessity of interference. And then commences a laborious, lengthy, and most costly process of inquiry, usually by Commission, followed by all the delays and difficulties which attend modern legislation; and, ultimately, some Act of Parliament is passed, dealing, often rather timidly, with some one class of charities, upon principles which might with wisdom have been long ago boldly applied to all; and abuses are at length reformed, and waste is checked, which need never have arisen had Parliament laid down beforehand a self-acting system for supervising charities after the earliest stage of their existence.

Not to advocate the sterner measures sometimes suggested, who need object to a proposal which would give to every founder a 'Term of Inviolability,' as Mr. Kenny calls it,[2] during which his directions shall be followed, and his plan or experiment tried, according to the terms of his deed or will? According to this proposal, the State would, when the time of revision came, in case of a need for change, apply the doctrine of *cy-pres*, to the extent of requiring that, *if possible*, the new scheme should adhere to the general object the founder had in view. Mr. Kenny makes a further concession to the founder, and suggests that the new scheme might be confined to 'the particular province of charity'[3] that he had selected; but that seems an unnecessarily binding provision, and one that would often prove impossible to carry into effect, when one remembers how many endowments have been created in times past for

[1] Kenny, p. 140. [2] *Ibid.*, p. 189. [3] *Ibid.*, p. 189.

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'provinces of charity' that have been rendered quite obsolete by the changes wrought by time, and by extensions of the duties undertaken by the State and by local government. Some of the instances I have already mentioned belong to 'provinces of charity' that have been submerged by the tide of time and change; such, also, were endowments for hanging out lanterns in the streets of London, for constructing and maintaining a conduit in Cheapside, and for providing shrouds for the numerous offenders executed on the gallows,[1] in the days when capital punishment was not confined to murderers. Even the limitation of the power of diversion—that is, diversion to *cy-pres* uses only—should not be absolute. Where a *cy-pres* application of a charitable endowment is impossible, the State should certainly be free to apply the fund to any other charitable purpose. One of the difficulties of a rigid adherence to the principle of *cy-pres*—that is, of keeping as closely as possible to the founder's general intention—is well illustrated by Mr. Hare.[2] 'If a bequest be made for the perpetual benefit of aged and poor drapers of St. Andrew's parish, and this class becomes extinct, how can we determine whether the testator's chief desire was to benefit persons who were of this parish, persons who were drapers,' or persons who were aged and poor?

Yet, under this rule of *cy-pres*, the Court of Chancery considers itself bound, in making any new scheme, to adhere as nearly to the founder's intention as it is legal and possible to do.[3] A great weight of authority, including that of Royal Commissioners and Lord Chancellors, admits the uncertain, capricious, indefinite, or arbitrary nature of the rule of *cy-pres*. In 1867,[4] the Charity Commissioners protested against its 'prohibiting the establishment of any scheme involving a substantial departure from the declared intentions of the founder, whatever may be the balance of convenience or social advantage in favour of the change:' and, in February 1873, they suggested that the universal recognition of the tendency of doles and similar charities to pauperise and demoralise the lower classes, gave 'ground for supposing that some change in the law which may provide for the more beneficial administration of the numerous endowments, now exclusively so applicable, would meet with very general acceptance. As was observed in one of our former reports,' said the Charity Commissioners, 'we venture to think that the surest and most effectual means of accomplishing this object will be found in

[1] Kenny, pp. 173–74. [2] *Ibid.*, p. 213. [3] *Ibid.*, p. 213.
[4] *Parliamentary Papers*, 1867, p. 4, and Kenny, p. 214.

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the judicious relaxation of the rule of law which prohibits, with more or less strictness, all deviations from the trusts of the original foundation. The soundness of that rule is, in our judgment, very questionable.'[1]

The Endowed Schools Act of 1869 admitted a departure from the *cy-pres* principle by enabling the Endowed Schools Commissioners, at the instance of trustees, to divert to schools funds left for doles or certain other doubtful or obsolete purposes.

Why the Charity Commissioners should not have at least a similar power it is difficult to say. But the principle of such diversion has been admitted: it was inevitable that it should be admitted, in the face of the waste and mischief that rigid obedience to founders' wills was causing, and in face of the impossibility of carrying out in many cases the *cy-pres* doctrine. We have now to insist that the principle thus admitted shall not be fettered unnecessarily; but that, where *cy-pres* objects are not possible or desirable, other uses shall be found for the money now wasted, or worse than wasted.

Let me give one more instance of a foundation, not a dole, which in spite of its folly, absurdity, and petty motive has enjoyed the protection of our law. This is the will of one Thomas Nash (quoted by Sir A. Hobhouse):[2] 'I do also hereby give and bequeath to the mayor, senior alderman, and town clerk of Bath, for the time being, the sum of 50*l.* per annum in trust, ... for the use, benefit, and enjoyment of the set of ringers belonging to Abbey Church, Bath, on condition of their ringing on the whole peal of bells, with clappers muffled, various solemn and doleful changes, allowing proper intervals for rest and refreshment, from eight o'clock in the morning until eight o'clock in the evening on the 14th day of May in every year, being the anniversary of my wedding day; and also on every anniversary of the day of my decease to ring a grand bob major and merry mirthful peals, unmuffled, during the same space of time, and allowing the same intervals as before mentioned, in joyful commemoration of my happy release from domestic tyranny and wretchedness. And for the full, strict, and due performance of such conditions, they, the said ringers, are to receive the said 50*l.* per annum, in two payments of 25*l.* each, on those respective days of my marriage and decease.' The complaint of 'domestic tyranny and wretchedness,' followed as it is in the will by some allusions to a reverend gentleman 'that dear divine man (to quote Mr. Nash's own words)' and to his practice of 'enveloping

[1] *Dead Hand*, p. 213. [2] *Ibid.*, p. 102.

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himself in a sedan chair for fear of detection,' shows plainly that the motives of the will were spite and jealousy, and not the welfare of the ringers or the promotion of bell-ringing. Yet this foundation was protected as a perfectly good 'Charity' by the law, which only interferes with endowments that are against good morals. To such a case as this the Court of Chancery would, I fancy, find it puzzling to attempt to apply the principle of *cy-pres*. In all such instances, a power of interference and diversion ought surely to be given, at least after a certain interval, to the Charity Commission or some authority established for the purpose.

The Scottish Courts—according to the Endowed Schools (Scotland) Commissioners[1]—do not appear to have exercised powers of modifying and altering trusts so fully even as the Court of Chancery in England: and apparently in consequence of this, trustees and governing bodies in Scotland have themselves introduced changes more freely than has been usual in England. The Commissioners state 'that the cases are very few in which all the conditions, especially in foundations of old date, can be observed. Even in recent foundations they are sometimes quite unworkable; or they lead to extravagant results, as in the case of the Burnett Treatise Fund;' one-third of which accumulates and is applied once in every forty years in two prizes for treatises. The next competition will be in 1894, and the amount available for the prizes may probably exceed 10,000*l.*[2] 'Sometimes trustees have altogether disregarded conditions strongly enforced by the founder—as in the Douglas Free School, Newton-Stewart, a comparatively recent foundation, where the foundationers were required to attend church on the first day of the year, the girls to be dressed in white, with a red ribbon sash round their waist, and their hair in ringlets down the shoulders to be powdered, and to be adorned with artificial or natural flowers; and the boys to be dressed in green coatees, with white waistcoats, long trousers tied with ribbons above the ankle, to have a white stock and bands hanging down the bosom, to have a little green silk bonnet on their heads, set round with flowers.'[3]

Examples might easily be multiplied of the necessity of applying in Scotland, as well as in England, the principle of revision. I feel some diffidence in dwelling much, before an Edinburgh audience, on cases of waste or misuse of endowments in Scotland, or of the difficulty of working Scotch charitable foundations. But abundant instances could, I fear, be found of all these evils—possibly even within this city. Restrictions

[1] *Report*, iii. (1875), p. 66. [2] *Ibid.*, iii. p. 144. [3] *Ibid.*, iii. p. 69.

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giving a preference to persons bearing particular names, or having kinship with the founder, have existed in certain hospitals, and have often resulted in the neglect of the early instruction of the children whose fortunate—or unfortunate—name made their parents carelessly confident of their ultimate education. Considering the revolution that has gradually taken place in society, and in the position and relations of all classes, restrictions giving a preference to particular classes of society—such as 'burgesses' or 'guild brethren'—if too literally construed, and not rather interpreted as to their original spirit, result in limitations in favour of some class totally different from that contemplated by the founder, the letter of whose instruction is held up to all reformers as a warning that they will be misrepresented as plunderers and communists.

Restrictions to particular places deserve much respect. But even these should be regarded in the light of altered circumstances. The limit may have become too narrow for an institution that has necessarily grown, and whose growth is attended with benefit to all persons concerned. A place that was poor in endowments may have become rich—richer indeed than is wholesome. To these, sufficient reasons for relaxing a restriction to a particular town may sometimes be added another: viz. the advantage to the foundation and the town itself of attracting to the school, or other endowed institution, pupils and residents from outside.[1]

There have been many suggestions as to the interval which should be allowed to elapse before the interference of the State. Under Lord Cranworth's Bill of 1853, if it had passed in its original form, charities deemed injurious or obsolete by the Charity Commissioners would have obtained no Term of Inviolability.[2] I confess that, especially in extreme cases such as some of those I have cited, I think that the interval before revision should be short. In others, where the founder's scheme involves anything like an experiment that deserves a trial, there seems to be much to be said for the view of Mr. J. Stuart Mill, on which Sir A. Hobhouse commented unfavourably at your Manchester Congress last year.

Mr. Mill urged that to give free scope to individual fancies would be likely to lead to valuable experiments in social arrangements. Sir A. Hobhouse challenges an examination of the forty thousand or more endowments founded during many centuries of a state of the law protecting such experiments,

[1] *Endowed Schools* (Scotland) *Commission, Report*, iii. pp. 71–76.
[2] Kenny, p. 218.

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and invites the mention of any endowments which have originated valuable improvements. He believes that no new and valuable improvements have ever resulted from wills and bequests, but that such improvements are only made 'by living people who can give their hearts and souls to them as well as their property.'[1] Be this as it may—and I cannot believe that no useful experiment has ever been tried in obedience to a will—there should, I think, be provision for a term of grace for such experiments in the future. If it be true that no such new institution as the first hospital or school (of any special sort) or the first reformatory, mendicity society, or provident dispensary, could trace its birth to the directions of a dying founder, it is at least possible that a will might contain the germs of some future fruitful experiment which it would be short-sighted to nip in the bud. I am acquainted with a will—that of Dr. Gilchrist—under the judiciously wide and general directions of which at least one new and useful experiment has been and is being tried. But whether a 'term of inviolability' should be granted except for such cases of possibly useful experiments, and what should be the length of the term, are questions on which much may be said. Mr. Mill went so far as to be willing to allow 100 years, at least for certain kinds of charities[2]—a period which seems quite unnecessarily long. For inefficient, as distinguished from injurious, charities Lord Cranworth's Bill of 1853 proposed 60 years.[3] The Oxford University Reform Act, of 1854,[4] empowered the University to frame statutes for modifying the trusts of any gift held by it 'which has taken effect for more than 50 years;' the Educational Endowments (Scotland) Bill of the present year did not authorise interference with endowments less than 50 years old; and in the Endowed Schools Act of 1869, power was given to alter the constitution of endowments more than 50 years old without the consent of the governing body. The Schools Inquiry Commission had, however, advised that the power of revision should extend to all foundations more than 30 years old—a period suggested also by the Law Amendment Society's Committee on Charities. The Popular Education Commission[5]—I am again quoting Mr. Kenny[6]—recommended 'the more variable but more familiar limit of the founder's life, and twenty-one years after his death, revision during the twenty-one being, however, permissible if the unanimous consent of all the trustees were obtained. This limit was recommended by

[1] *Dead Hand*, p. 224.
[2] *Fortnightly Review*, vol. vi. p. 381; Kenny, p. 215.
[3] Kenny, p. 218.
[4] 17 & 18 Vict. c. 81, s. 30.
[5] *Report* i. p. 636.
[6] P. 215.

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Lord Hatherley in his evidence before the Public Schools Commission for the sake of preserving uniformity with the rule which restricts private settlements.'

Private settlements seem likely to be subjected to greater restrictions ere long; and considering the evils traceable to the influence of strict and long settlements, and especially the hindrances to the liberty of the possessors of the soil to develop its productive power or to transfer it freely, the sooner such limitations of the power of the dead over the property of the living are adopted, the better for England, Scotland, and Ireland.

Whether the anticipated changes in the laws regulating the settlement of property for private purposes soon take place or not, the law has through centuries successfully combated the efforts of individuals to introduce any form of *perpetual* settlement. The perpetuity abhorred by the law as regards private property cannot, in the face of the various legislative measures of interference which I have cited, be claimed for the public uses to which a founder may devote the future produce of the property he has enjoyed.

In their third report (1875) the Royal Commissioners appointed to Inquire into Endowed Schools and Hospitals in Scotland,[1] after stating that one or two witnesses deprecated any departure from the strictest observance of the terms of bequests, where such observance is at all possible, but that the great weight of evidence was in favour of the opposite view, proceed thus: 'As time goes on, many conditions imposed by founders tend to become discordant with, or at least inapplicable to, the changes that inevitably take place in the state of society; and the longer such conditions are observed the more mischievous is their effect. As a matter of expediency, therefore, it is plainly desirable that conditions of this character should be modified from time to time, so that foundations may be truly adapted to the altered state of things, and full scope given to their beneficial influences. The right of the Legislature to regulate endowments for the purpose of furthering such ends is now generally recognised; nor can those who maintain the obligation to observe literally all conditions imposed by founders rest this opinion upon any sound principle of law. The policy of law is opposed to destinations of property beyond a limited time—"The law abhors perpetuities." This general policy is relaxed in favour of great educational or charitable purposes; but when it can be shown that these purposes are not adequately attained, society rightly exercises

[1] P. 66.

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a power of modifying conditions which obstruct the beneficial operation of the endowment.'

The doctrine of perpetuity is, as I began by asserting, one of those false theories which it is the duty of political economy to combat, in the cause alike of truth and of the interests and welfare of the country. I do not anticipate that any one will seriously dispute that these subjects may legitimately and usefully be treated by your department of Political Economy. But if any one should ask what the question of charitable endowments has to do with economy, I answer—everything. How long is the economist to look on silently whilst almost indiscriminate doles and other imprudent charities pauperise our people? How long is he to hold his peace while endowments are allowed in so many cases to create the very poverty they were intended to diminish? How long, while the dead hand of the founder is allowed for centuries to dictate the mode in which part of the property that he could not carry with him shall be used? How long, while even absurd and manifestly wasteful bequests are protected by the law from revision and application to reasonable objects?

It is time that thoughtful men in your various departments gave their practical attention to these fruitful causes of waste and pauperism; and who is more concerned than the political economist to expose waste and suggest measures for checking it, and to call attention to whatever promotes pauperism, with a view to reform?

The only figures I have before me happen to be those for the year ending March 1874. Our expenditure on poor relief was then (omitting thousands):—

In the Metropolis . . .	£1,630,000
„ rest of England and Wales	6,050,000
„ Scotland . . .	850,000
„ Ireland	1,000,000
Total	£9,530,000

This vast item of national expenditure is perhaps that most deserving the attention of the economist. While we discuss—as the Department of Economy and Trade does here in Edinburgh—such panaceas for pauperism as Mr. Blackley's scheme of 'National Insurance,' let us, as practical men, seek out one by one those causes of pauperism which legislation and reform can reduce or remove.

Speaking of one of those causes of pauperism the Charity Commissioners say: 'Doles produce ultimately more poverty

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and misery than they relieve.' And they add: 'The true way of giving relief is by helping the poor to help themselves; by endeavouring to give them health and strength of body, intelligence and cultivation of mind, and habits of thrift, foresight, and self-respect.'[1]

True charity of this kind living men can do far better themselves—either individually or with such organisation of charity as is necessary in our great towns—than it can be done by the dead hand of a founder, or the obsolete rules of a dole.

True charity of this kind it is one of the provinces of this Association to promote; and no occupation is more worthy of its great position, and its opportunities for holding the lamp of truth and wisdom before the path of philanthropists of all descriptions, than to divert from waste and misuse, and to guide at least into pure and harmless—let us hope, into beneficent and fruitful—channels the course of the abundant streams that bear the blessed name, but too often, alas! do not fulfil the apostolic attributes, of Christian charity.

[1] *Parliamentary Papers*, 1867-68, xxi. p. 20.

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Address

ON

THE RELATION OF ART TO SOCIAL SCIENCE.

BY

PROFESSOR W. B. RICHMOND, M.A.

HOLDING the office of President of the Art Section of this Congress, I feel in a position of some difficulty and responsibility. Difficulty, because this office has been filled with great ability in previous years, and much has been said of useful wisdom by my predecessors in this chair, and little new can be said concerning purely high Art questions. Responsibility, from the natural feeling lest any words of mine should hinder rather than help the cause of Art, and the considerations concerning it which are taking place.

It would ill become me to delay the important business upon which we are called together by expressions of personal feelings. But I may express my sense of the honour done to the position I hold at Oxford, by my being invited to take the President's chair at this meeting.

After somewhat careful thought, it has appeared to me that more good may be gotten from an address in this Social Science gathering, dealing with Art from a social point of view, rather than with Art from its very highest standpoint. Further, being called upon to lecture at Oxford upon the 'History and Philosophy of the Fine Arts,' it will be a rather pleasant change to address you upon matters of great importance (as they appear to me) relating to the existence or non-existence of the chances of Art progress in the United Kingdom. And by that progress I do not mean alone the increased power shown in the painting of pictures, in the making of statues, in the building of cathedrals; but rather I would ask whether, taken generally, Art, or the love of the beautiful, is getting to have any

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firmer grip upon the minds and lives of all classes; that is, whether the necessity for being the possessor of a beautiful object rather than an ugly object is gaining ground. And, if not, what are the chief impediments to the growth of refined tastes among the middle and lower classes? The driest philosopher, or the stiffest-of-necked utilitarian, will no longer now fail to give Art an important place among the necessities of civilised existence. We certainly have an advantage in living in an age of reformation; in an age of freedom of speech, of intellectual growth, of courageous attitude against vices, narrowness, and pedantic usages of all kinds. There is a general desire for improvement among all classes, and a growing wish to cultivate taste. All this must be acknowledged; and yet we are far, very far indeed, from being an artistic nation. South Kensington's vast machinery for Art education, together with its beautiful collection of ancient and mediæval Art, has done something, indeed, to civilise design, and to educate designers into something of more reasonable artists than those who previous to the Exhibition of 1851 exhibited the lowest corruption of taste. Our National Gallery in the great metropolis has within comparatively few years become one of the noblest collections of pictures in Europe.

The great towns Manchester and Liverpool yearly open an exhibition of pictures, and there are signs in both cities of a desire for monumental Art, a desire that the bare walls of their buildings should be decorated with mural paintings.

This great city has its Royal Academy of Arts, among whose members may be found not only distinguished painters belonging to its own nationality, but others, foreigners in blood, but brothers in Art. The national collection here is an exhibition of unrivalled interest. The great painters of Scotland are represented in the manly majesty of their works. This Exhibition has been to me a revelation (as it must have been to others) of the power and individuality of the Scottish School of Painting. The Universities of Oxford, Cambridge, London, and, as I am informed also, Edinburgh, have within but a few years recognised the importance of Art as a branch of education by accepting bequests to form Art professorships. The Grosvenor Gallery, through the noble enterprise of a single gentleman whose name is well known here, whose name can only be heard with respect by every artist—Sir Coutts Lindsay—has given to the public the chance of seeing a class of pictures long denied to it by the persistent non-recognition of their value by the Royal Academy of London. All this looks like vitality, and no doubt does prove

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a growing interest in Art. But we must remember that these museums, these exhibitions, and these lecture rooms, are visited by a comparatively small class of people; that the very heart of the population, standing mostly in need of æsthetic culture, or of its refining influences, is yet untouched by Art. And that outside those whose appetite for what is lovely can be satisfied, there is a hungry crowd which would be satisfied too if it had the means, and were not dragged down into the slough of bad taste by daily influences acting unconsciously upon the minds of it. The vast strides of science, the rapid accumulation of wealth, railways, telegraphs, have created needs to be realised quickly. New towns have sprung up like magic. Old towns have been pulled about without regard to the historical or artistic treasures contained in them; the ruthless reign of iron has prevailed, the unfeeling hand of destruction has satisfied its lust, well nigh, let us hope. The reaction has come. But where are we?

Something worse almost than pulling down our churches has taken place. Restoration has caused even more ruin than the progress of railways. Many of the most interesting and beautiful creations in architecture have been swept away; and this done in no spirit of destruction, but with the mistaken idea that it is possible to restore old work at all—with the idea, too, that neatness and mechanical exactness will not only serve in the place of spontaneity of design, but that it is in point of fact superior and more desirable to it. If one-tenth part of that money spent in so-called restoration had been expended in preserving, by the simple means of adding a buttress to a weak wall or tower, or by strong oak timbers, unplaned, where the roof was weak, or by such like structural repairs, monuments of the love and skill of those in bygone times, whose simplicity of life rendered simple their faith and ideas, would still remain to us, in the place of what may be called pious frauds. It was with a view to check the headlong and heedless rush of the restoration mania that the 'Society for the Protection of Ancient Buildings' was brought into being. Late in the day though this admirable society has come (too late, indeed, to save much beautiful work from destruction), through the energy of its workers and the enthusiasm and courage displayed by its secretary, Mr. Morris, old work has been protected and respected under the advice of the society; and out of our own country, in Italy and France, the influence of the salutary example set by the Ancient Buildings Protection Society has borne fruit. The mother church of Western Europe, St. Mark's at Venice, was threatened with destruc-

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tion—that noble façade, the labour of the twelfth, thirteenth, and fourteenth centuries, was to be pulled down and rebuilt. Through the exertions of the Ancient Buildings Society such a memorial was drawn up, signed, and sent to Italy, and by reason of the number of its signatures, and the importance of them, we cannot but hope and believe that it has brought the lovers of Art in Italy to consider again before they withhold their words of expostulation at a project which would rid the world of one of its greatest treasures.

I have ventured to make use of the term 'pious fraud.' Restoration pretends, at best, to be what it is not, and never can be; it pretends to restore work to its pristine beauty, it gives new lamps for old ones, and, as in the ancient story, the new lamps are found to have no virtue in them. The magic of old work disappears under the hand of the modern workman; for the conditions under which the eleventh-century carver and the nineteenth-century carver have worked are so totally at variance that their labours cannot for a moment bear comparison, and it is out of all question that the modern work of to-day can have one iota of the spirit of the ancient work.

Therefore, restoration has in it the nature of a deception, and must be most misguiding to those very classes whose correct and chaste taste we must be desiring to cultivate. I am informed that the Castle of Edinburgh is in a 'hopeless state of dilapidation,' injurious to the health and comfort of its garrison as it is to the honour of Scotland. Would it not be possible to persuade the British Government to propose a grant of money to assist towards necessary repairs? But pray do *not restore.* But preserve by every means possible what remains!

Architecture is such a generally necessary art to all, it enters into the wants of every-day life, that it should be, and is, one of the chiefest factors in Art cultivation, and hence it can be made to retard or advance the progress of general artistic tastes.

So that the placing of new and cold workmanship in the place of old, truly artistic and loving work is defrauding a very large class of people indeed, rich and poor, of the refining influences of superior and nobler work.

The very rapid and easy means of communication by railways and telegraph have in great measure broken down those local characteristics, both in architecture and manners, so interesting in older England. A general, very natural, and to be applauded desire towards greater equality among classes, brought about by modern facilities for their coming daily more

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and more into contact, has acted in making the lower class ape the appearance of wealth and show of the class just above it. So that, instead of being content with real stability, it demands ornament in its dwelling-place, in its furniture, in its costume. Hence vulgarity, bad work, bad building, bad design, and in the end a tumbledown and demoralising appearance of rottenness or flimsy raggedness. Few sights can be said to be more depressing than the ill-built, stuccoed labourer's house now erected in a village street, mean to the last extent, be it understood, having no inch of good work or interest about it. Sad is its cold slate roof indeed, in contrast to the old thatch, cool in summer and warm in winter. Melancholy the contrast between its bad bricks and the oak timbers joined and well mortised which had stood often the wear and tear of centuries in an old cottage. The taste of the inhabitant of the senseless edifice is lowered; rarely do we find the same sign of care taken over his cottage garden, the same pride in his creepers of roses or grapes, as was visible in his more primitive dwelling. Yes; very naturally the man, though poor, is influenced by the vulgar want of association, and his pride in his unsympathetic dwelling and of the comeliness of its surroundings is ground out of him by it; he becomes vulgar, no longer simple, liking his imitation and really comfortless house because it has window-sashes like the squire's house, and he deceives himself into the thought that so he is a bit higher in the social scale. This instance is only at the confines of the general ostentation which is the product of modern civilisation, and can only be checked by the energy of Art.

Checked by those who have taste and who have a right to speak, saying, without fear and in perfect faith in their own convictions, that where the heart is not simple, where there exists a grasping for another's social place, there will neither exist beauty nor morals. It is admitted, of course, that the old will not last for ever, that new cottages must be built; but let them, these new ones, at least be built (in an age boasting of its superior science and superior facilities) as well, and as lastingly, as the old were built. It comes to this really in the long run, that those who desire their dwellings, their clothes, or their furniture, to appear more costly than they really are are the true delinquents. These are they who pervert taste. Solid stone or brick walls, well roofed, the strongest and simplest furniture, without the overlay of cheap and bad ornament, woollen or linen unadorned garments, will never be vulgar. If this fact could only be made clear to the minds of most of us, a better style both in house building and house

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furnishing and dressing would come about. From a clearly practical point of view it is so evident that, although the first outlay may be greater in building, furnishing, dressing in a solid or simple manner, repairs so expensive and constant need be but rare, and, too, that mental demoralisation where repair cannot be afforded, caused by the rapid decay of showy but bad work, will be avoided.

No one will deny the moral influence exercised, even unconsciously, upon the whole human race, and, too, even upon animals, by the nature of their daily and hourly surroundings from earliest years. That this influence may be good or bad in morals and æsthetics needs no words from me.

Now, believing this, and being anxious for that large lower class which composes our labourers, agricultural and others, more especially for the sake of those who will exercise themselves in any craft, such as building, carving, carpentering, cabinet-making, what can we do during the few early years of their education which might guide their tastes in a good direction? And further, what agencies are there at work in the general surroundings of our great cities which tend to degrade rather than to elevate the love for what is beautiful and refined?

I take it for granted that those who are here to-day are interested in Art, and that there will be found no one who will say that any child will be less fitted in after-life to perform the simple duties of an artisan or labourer who has been led by daily contact with beautiful objects to prefer them to ugly objects. And though I quite think there are none here who believe that dulness is moral, joy immoral, ugliness chaste, beauty unchaste; yet (though chiefly exploded) this theory has not been without its votaries among excellent though misguided moralists. Now, science has provided us with a means in photography, cheap, and by recent discoveries permanent, by which at small cost any quantity of reproductions of noble works of Art in all its branches may be obtained.

I have mentioned that there is a very large class which, through various causes—either from want of desire brought about by faulty early education, or want of means, from overwork, or want of holidays—do not make use of the advantages possible to it of visiting museums, galleries of pictures, or attending lectures upon subjects of æsthetic import. This being so, is there no means by which this present failing may be made up to the next generation? I think there may be!

Since the Education Act has been brought into full play in England, a chance offers itself to get at the very class we

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want to touch and educate to love what is beautiful and refined; and, as I venture to think, this class would be vastly improved, even morally, by early contact with beautiful objects.

No doubt many here have observed in their passages through picture-galleries, as I have, that the very poorest, those in rags and tatters, are often found rapt in admiration before early Italian pictures, and especially before those of a religious character. This fact has been most noticeable to me in the National Gallery of London. And when we come to think of it, it is reasonable that this should be so. The direct simplicity and reverential treatment of the early pictures has a charm to natures ignorant, perhaps idle, perhaps dissolute, concerning which there is no reasoning; but that bright spark of human feeling wellnigh, perchance, snuffed out by the degradation of surroundings, is rekindled by its contact with the fire of pure love ablaze in early religious Art. So that we must admit the possibility of touching the sensibilities and the nobler emotions of those in the lowest scale of life by the elevating influences of Art. Photography being the cheapest and most exact means at hand for the purpose, I would suggest that our Board Schools, each and every one of them, and our Parish and Sunday Schools too, should, under wise guidance of a committee of taste, provide themselves with photographs of fine works of Art. And these should not be confined to reproductions from pictures only, but should include architectural details, furniture, patterns and designs of all sorts. And, further, I would have casts from fine carvings, which can be purchased at such a modest rate as few are aware of; these with the photographs should be hung in order upon the schoolroom walls. Every child who can learn to write, one would think, could learn to draw, up to a point to be of great service in after-life. Think of the numbers and numbers of artisans who in the departments scattered over the country under the supervision of the Art Department at South Kensington, whose rough and hardworked hands during the day handle the pickaxe, or trowel, or even spade, endeavour in the evenings to train themselves by tracing the delicate curves of a Greek honeysuckle carved on a stele, or by copying the fanciful ornament designed in years gone by by a Gothic workman. No better was he than these present workmen are, only, having lived in a more artistic and vital atmosphere, his Art had life and meaning in it.

What difficulties to such as these artisans are would have been overcome, if in early life while yet supple, as not yet

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rendered stiff and difficult of command by the daily exercise of rough work in order to exist, their hands had been cultivated, even up to a limited point of control and sensitive delicacy of touch. And if at the same time that the young hands are learning, the impressionable youthful mind be cultivated through the eye to dwell upon beautiful objects, what a seed of profit and delight is sown! Of course, it is easy enough to see that there would be many failures attendant upon such a scheme, that a pessimist may say, 'Ah, yes! but what good would come out of such super-refinements? You are only training a side of the mind which will never be brought into play in after-life; you will only make your people discontented with their lot in life and unwilling to fulfil its drudgeries.' But the answer to all this is, 'You are only presupposing a result upon a scheme not yet tried; you are begging the question in stating that cultivated instincts towards refinements weaken self-control and the exercise of severer duties.' Further, by teaching children of the artisan class to draw, you are furthering them with advantage in the pursuits that may be in store for them in after life, and by accustoming their young eyes to dwell upon beautiful design you are stimulating a faculty where it exists, though latent, perhaps. Again, morally, by teaching the elements of drawing, you put an amusement within reach by which spare hours may be enriched, time be employed otherwise spent in the tavern.

Healthful amusements, occupations for the eye and hand, are the enemies of vice, and the strong armour of probity.

I have said that the reproductions in photography should include other examples than pictorial art, for though examples from that ancient and modern form of art are necessary to the beginning of cultivation, not only on account of their innate beauty of design and form, but also on account of the beautiful ideas by which they have been stimulated, with which they are connected, others of a more directly practical nature should be added. And for this reason; among those, in fact most of those who are being educated by our Board Schools, there are children who may become members of trades in which taste and a faculty acquired for design will be of great service. So photographs of beautiful ironwork, such as that beaten by the Flemings and Dutch, will be invaluable as training the taste of the child who may become a blacksmith. Again, the future cabinetmaker may have his imagination stimulated and his admiration kindled by examples of Italian or Dutch marqueterie. He who by-and-by is to carve the capitals of future churches, and who knows perhaps how to design them as well, will not be

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the worse off for having in childhood had his attention drawn to casts from some carvings of the front of Wells Cathedral or other examples in the art of which he is to become so important an exponent. Nor is it impossible, but highly probable, that artistic natures dormant from want of calling out, or from want of opportunities of seeing beautiful art, may be awakened into a desire to design by a stimulus exciting a desire to emulate the beauty of the art they are permitted to see, and concerning which they might receive valuable instruction. Although I have ventured to lay some stress on the practical advantages of learning to draw, it is not so much upon this that it appears necessary to appeal, for I believe that at present in the Board Schools children can learn to draw, although upon a routine as yet not satisfactory: yet the question arising for our consideration, is really whether the scholars would not be wholly benefited, improved, and for their lifetime refined by being accustomed in early childhood, and during its impressionable educational period, to have before their eyes Art, in some of its foremost, poetic, and practical phases constantly. And whether, being thus trained and accustomed to see beautiful works, the taste and workmanship of the coming generation would not be elevated, its labourers more refined, and the need for better Art become a part of its natural existence. Further, whether such refinement begotten of Art would not act upon morals, reduce drunkenness and crime, having sown the seed of perceptions in a beautiful direction, in a class sadly needing them, and if directed in practice, benefit the career afterwards chosen or forced by circumstances upon the individual scholar. It seems to me here at this Social Science Congress that we meet rather to suggest and discuss possibilities, than to draw up any definite and possible governmental schemes by which our ideas might be carried out, and that we must leave it for others versed in political economy or other economy, to tell us how far the rates would stand the pressure upon their funds of an outlay needful to carry out our suggestions. But this much may be stated, that if it were proved that by an increased interest given to artistic cultivation, if more insistance were made by the Government upon it, and it became generally recognised that our lower classes are capable of æsthetic culture, and that such culture would tend to the progress rather than to the decline and fall of our nation, our country would not be slow to expend a portion of such money as is now spent upon a hundred-ton gun (to be shortly superseded by a further improvement), upon the taste and moral advancement of its people. The real point of difficulty is to convince the general

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mass of men, governmental or other bodies, that the æsthetic soul is worth saving at all, or that Art and taste are of any value whatever, excepting as a pastime for the rich, or a dilettante diversion for the lazy. On the other hand there is a set of, as some think, madmen, who imagine that the influence of Art has drawn nations from barbarity, that the Christian religion has found it a fair handmaid in her teachings, that the lower classes of all countries have emotions worth educating, and that these lower classes are more than beasts of burden, rather they whose welfare, happiness, and taste we who have experienced the advantages of culture are bound to assist and foster.

It will very justly be asked, who are there, if such a scheme as is here suggested be thought practical, whose power in teaching would be sufficient to carry it out with success? The answer to this question is not simple. The Government Schools of Design are constantly educating men as Art teachers; these are sent from the South Kensington Museum to take in charge local Art Schools. Where these have been educated others can be educated; the supply will come when there is a demand generally. But great care would have to be taken that those who are to teach and guide the tastes of the Board scholar should not only be qualified to do so in the practice of drawing, designing, or carving, but that they should be men enthusiastic about their educational work; capable, too, of giving clear lectures on Art, in precept and practice to children, and while they instruct, to amuse and excite their young minds. Beyond these teachers, being now in an age of much voluntary work, much self-sacrifice on the part of the upper and educated classes, no doubt many willing persons could and would be found willing to give up a small portion of their time, now and then, to lecture to their poorer little brethren, and to give to them some of the result of that Art education of which circumstances have allowed them to be possessors. Time will not allow me now to go further into this side of our question; slightly, indeed, only, and rapidly, have I been able to touch upon it, but the suggestions I have made may be modified or augmented by others, if any are found to take interest in them. There are other questions which I am anxious to touch upon now. It was asked in the earlier part of my address, what agencies are at work in our great cities which are acting against the artistic development and good taste of the poorer class?

Now there is one which will at once appeal to us all. The great competition existing in our age, the anxiety for pro-

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minence, the desire to out-Blondin Blondin, to fall further than Zazel, to expose the last result of African conquests to view, converts advertisement into a possible Art. What a means this system of large advertising pictures might be made, if rightly used, for the education of taste among the lower classes! What a blot and abuse it is in our streets as at present used! It is difficult to find words strong enough to declaim against the miles of walls which are covered with vulgar and revolting placards. And now the Brobdingnagian dimensions they assume are positively alarming in their gigantic hideousness. We have an inspector of plays, an inspector who is bound to see that no public morals are injured by what is produced upon the public stage. Why should we not have an inspector of moral tastes for our still more public streets? It will, perhaps, be said that this would be interfering with the liberty of the subject, that you could not exercise such a right without injury to it. But you have an inspector of architecture, you are obliged to build to a certain symmetry with other houses, the frontage of your house must be in accordance with the frontages of your neighbours' houses; and furthermore, alas, for the beauty of our streets, the houses must look as much as possible as though they were turned out of the same mould. Well, we will admit that this supervision is a failure, and that the laws under which it acts are detrimental to beauty, invention, and variety. But it need scarcely be thought that such transient works as advertisements would be injured in the subject of their taste by an artistic overseer who would have the public good taste at his heart. I say transient advertisements; this in a sense they are, but in another sense they are the very reverse, for their bad and vile Art is lowering to the taste of the very class we are most anxious to elevate, and must leave behind it an indelible injury the reverse of transient. If those who advertise would get the advice of good artists, and there are among our best designers those who would gladly assist in such a worthy cause, not only would they profit by the attraction well-designed advertisements would have, but also they would, instead of doing a public harm, as they are now doing by using a powerful weapon in an ostentatious and vulgar way, be public benefactors by disseminating good Art in the most public manner possible. We all know the admirable work done by Mr. Walter Crane in his 'Baby's Opera,' and by Mr. Caldecott in his illustrations to 'John Gilpin,' and other excellent designs. Taking these two artists for England—and you in Edinburgh have plenty who could do the work for Scotland—whose

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facility and taste especially fit them *both* for designing where rapidity of invention and execution, humour and pathos, are such necessities, let us imagine what a difference there would be on the hoarding boards, omnibus interiors, and railway stations, if the works here were executed under the supervision of such excellent designers. Where at present our eyes are disgusted, our sense of all refinement insulted, we should—and what is still more important, the workmen and labourers would—find something worth looking at, something which, instead of lowering, would elevate taste. All the freedom so boasted—freedom of the press, British rights, cant about liberty—has had such a swing, and still has such sway, that it may be said to be licence, not liberty; the world has been so busy making itself rich, running headlong after every facility for doing so, has got us into such a state of anarchy, carelessness, and total disregard for matters of taste, that we must look round now and see whether the reaction now setting in against mere utilitarianism cannot be pushed further, and whether the ordinary human being has not, after all, something in his nature well worth cultivating besides his greed for success in money-making.

It must appear strange that anyone should dare to mention 'the freedom of the press' in a derogatory tone, for its advantages are enormous; but while they must be admitted to be so, certain evils touching upon such freedom cannot be denied. By these evils I mean the low taste of such papers, to give an instance, as the 'Police News,' bearing a sheet of odious woodcuts, representing, with the worst possible taste, the last ghastly murder, arson, or wife-beating. It is no exaggeration to say that this Art, if Art it can be called at all, is doing incalculable mischief both to morals and taste; nor will anyone fail to observe, if they take the pains to do so, how knots of children of tenderest years collect round, and with tragic and pathetic curiosity, are rapt in contemplation of these horrid pictures of the basest crimes. When we think what a seed of taste and demoralisation is sown by the fact of children taking into their minds, almost with their mother's milk, impressions so utterly at variance with every noble instinct or healthy desire, so contrary to the pure nature of childhood, we can hardly help feeling ashamed and aghast at a Legislature which, while it is indeed rich in Poor Laws, while it is earnest, too, concerning the bodily wants of its lowest class, permits such a social scandal to taste and morals to exercise itself upon the childhood of the rising generation of its poor but most sensitive class.

Yet another influence is at work, and this not only upon

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the morals and tastes, but on the health of our citizens. Of course, to those who do not believe in beauty and morals acting one upon the other, who consider that man's mind is not influenced through his body, who imagine that it is idle and lost time to consider the cultivation of a love of beauty, all that I have said, and what I still have to say, will appear fanciful, utopian, unnecessary—in fact, harmful. But those who agree with us, who love beauty and Art, and believe in their distinctly moral influences, must see that the absence of light and clear atmosphere, the almost total obscuring of the sun during eight months out of the twelve, cannot but have the most depressing effect upon a class whose conditions of poverty and overcrowding are sufficiently accentuated already.

Were it absolutely necessary, were it indispensable to the comfort of all, that our cities should be covered with a thick pall of smoke, we might be willing to bear with it; but when we know this is not the case, that such a state of things need not exist, it is exasperating to find that there is such a want of desire among men for the blessings of a clear, clean, bright, healthy atmosphere; that there are very few who regard with any regret that the sun and sky are denied them, being so used to the denial of them; that these shrug their shoulders with some scorn, and even pity, that there should be those who are so weak as to love beauty while they can have money, or that the outward appearance of nature should affect them while their pockets are full.

A few days since there was an article in the *Daily Telegraph*, sensible in what it said—namely, that it was to be lamented that while scientific men were so busy occupying themselves over inventions such as telephones, telephotes, photophones, and other fantastical inventions, clever and wonderful, useful, too, perhaps—they should not turn their attention to something easy and practical—having proved their abilities to overcome apparent impossibilities—which would restore us a clear atmosphere.

As our cities become larger—and they do and must become larger—this evil of smoke destroying the surface of stonework must increase, rendering sculpture out of doors almost an absurdity; causing such risk to all kinds of mural decoration that it scarce seems worth while to attempt it. Embroideries, tapestries, all delicate workmanship suffer—in fact, are ruined unless protected by glass. The beautiful objects collected by Art lovers during the spare hours from business cannot be made use of as they should be; embroidered curtains from India, or Japan, or Persia, of delicate colour

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and exquisite work which would perish under the hand of a cleaner, cannot adorn the windows or walls of our rooms; they must be hermetically sealed, put away, or they are ruined. It is really very little use talking about Art until this condition is changed, and very little good expecting that we as English, or you as Scotch, people, care about the subject of Art, or believe with any sincerity in its usefulness, until we are all determined, each one of us, to believe that beauty is better than ugliness, that it is more important than fashion or wealth, that a clear sky is better than a black pall, and that the noble self-respect belonging to man is far more likely to increase and flourish under cleanliness and brightness than under dirtiness and dulness. Art has never flourished, and never will flourish, under depressing or degrading circumstances. She is not the sister of dulness, dirt, and darkness; she is the sister of cheerfulness, brightness, and light. She belongs to happy conditions of life, to a contented and thrifty people; she will not go where she is not wanted; squalor and degradation she shrinks from, but she should be the property of the poor as well as of the rich.

The question immediately connected with this Art Section I have not touched upon; the question immediately touching upon my own Art I have already lectured upon. Those relating to Music and the Dramatic Art, although I consider them of the greatest importance, I preferred to leave in the hands of such masters in these Arts who are here more qualified to deal with them than I should be. These have now received such interesting suggestions from Professor Jenkins, Mr. Herkomer, Signor Bach, and others, that I could add nothing of any value to them. Still, though it is not my intention to dwell upon either subject under the pretence of doing it justice, I may permit myself, and if you will permit me, I will say a few words concerning these Arts as refining agents, upon a popular and generally social scale. The growing love for music in the United Kingdom is enormous. Even in the memory still fresh of those younger than myself, London contained but few concert-rooms, and in these but a limited range of music was given; the seats, too, were of such expense that but few, excepting well-to-do people, could afford to avail themselves of them. Now there are many concert-rooms, and continual concerts going on, where the very best music can be heard at a reasonable rate. For one shilling now, instead of three shillings formerly, the works of the greatest composers can be heard. The result of this has been that a far larger circle of people now is interested in the greatest music, and

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there has arisen a chaster and stronger taste for severe and classical music than heretofore. Good music is no longer called heavy and dull; as the custom of constantly hearing it has caused people to appreciate its sound and lasting merits above the mere passing pleasure—purely sensuous—of music having nothing to touch the human heart or intellect in it. By grand music we are lifted out of the everyday burdens of life; we are transported by it to another land, as it were; we are elevated, refreshed, strengthened by it as by a tonic, and encouraged by its recreative powers to go about our labours with renewed cheerfulness and energy.

Cheaper and cheaper may our concerts become, so that the whole of our brethren may be able to profit by them.

The efforts made in the direction of Dramatic Art have been successful in many directions. Would, however, that the public taste had declined in its love for horrors. Would that the theatres could be found to draw better for 'Romeo and Juliet' than for the 'Ticket-of-Leave Man.' Let us wish Mr. Irving well, whose sense of the importance of his Art as a public benefactor and factor for the product of intellectual enjoyment and taste, has made him, with manly consistency, adhere to his Shakespeare.

If, let me add, aught has fallen from my lips of too strong language; if anything said here has wounded the sensibilities of anyone, I hope it may be forgiven.

It has been my endeavour to place before you, in as strong a light as lay in my power within the limits of my time—that Art, to exist, must be national; that the poorer should possess it with the rich; that there should be a chance for all to drink of its refreshing streams; and that unless a nation is in pursuit of the Beautiful, it can scarcely be said to have arrived at the extreme power of civilisation.

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Address

BY

GEORGE WOODYATT HASTINGS, M.P.,

PRESIDENT OF THE COUNCIL OF THE ASSOCIATION.

IT has been my custom at the request of the Council for many years past to say a few words, before the concluding meeting, in review of what has been done by the Association during the past year, and of the more prominent topics taken up at the Congress. I am glad always to be able to take stock as it were of the subjects which the Association has discussed, because I know well, and I have heard it even stated in reference to this most interesting and instructive meeting, that the Association does nothing—that we meet once a year, that we have a great deal of talk, that it all ends in talk, and that nothing practical is done. I assure you that those who hold that opinion do not know the history of the Association, and what it has accomplished in past years. I am not about now to review the whole history of the Association, but simply as a sample to point out one or two measures in which it has interested itself during the past year, and which are now placed on the Statute Book, as evidence that the subjects which this Association takes up, ventilates at its meetings, on which it instructs public opinion, and gradually paves the way for legislation, are finally dealt with, and successfully, by Parliament.

At our Liverpool meeting in 1876—which was the second time we had visited that great city—there was naturally much discussion on the subject of merchant shipping. Indeed, in 1858, when we first met in Liverpool, the question of the condition of merchant seamen, the temptations to which they were subjected, and the ill-usage they occasionally experienced, were brought before us in a very able paper by Mr. Carter, who was then one of the prison chaplains in Liverpool.

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In 1876, the subject was specially discussed, and a resolution was passed in our Economy Section, on the motion, I think, of Mr. Williamson, one of the principal shipowners of Liverpool, asking the Council to appoint a committee to consider, inquire into, and report upon the subject, and to take any steps that might be found available for the purpose of obtaining legislation with reference to merchant seamen. That course was adopted. We appointed a committee, which worked, as I can bear witness, sedulously at the subject during the following months of November and December, and finally drew up a report and placed it, through a deputation, in the hands of the then Vice-President of the Board of Trade, asking for legislation on the subject. Now, let me call your attention to the leading points that were brought forward in that report, which stands on record in our *Transactions*, and which was quoted by me at some length the year before last in my address to the Association at Cheltenham. In the first place, we advised that what is called the advance note to seamen should be altogether abolished. An advance note was in fact an advance of wages by the shipowner when a seaman was engaged, nominally for the purpose of enabling him to obtain an outfit, really, as it was alleged, or at any rate in many instances, for the purpose of holding him fast to the engagement he had made. We advised its abolition on evidence we had received as to the bad effects on the moral character, and also on the pecuniary condition of the seamen. We also advised that, when the ship came into harbour after a voyage, the men should be entitled by law to be paid their wages at once, instead of being kept, as I know they then were, sometimes for weeks, hanging about the docks and the shipping offices waiting to get their money. The evils that arose from that practice do not require to be dwelt upon. But there is another matter, and one in which, from what I knew had gone on in the Royal Navy, I took much interest myself. We advised that a system of allotment notes should be introduced into the merchant service similar to that which has now for many years been used in the Royal Navy. Let me explain what the particular object of that recommendation was. When the seaman comes home from a voyage, we will say from the Pacific or the Indian Ocean, there is necessarily a considerable amount of money owing to him—as much as 30*l.*, 40*l.*, 50*l.*, 60*l.*, or sometimes even 70*l.* or 80*l.*; and he has been in the habit of receiving all that money at once. But many of these men, very ignorant, without self-control, pent up as they have been for months in the close confinement of a ship, have only one idea on receiv-

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ing what to them is a large sum of money, and that is to squander it at once in profligacy. That evil once existed—and I well remember it—to a great extent in the Royal Navy; and in those days, when a man-of-war was paid off, you could see the seamen who had been her crew rolling about the streets in a state of intoxication, flinging away their 5*l.* notes to any one who would take them. The Admiralty introduced a system of what are called allotment notes, by which the seaman was entitled to have his wages paid into the savings bank, or to his wife, or to any other person whom he might select, month by month during the time his service was going on, so that when the time came for his ship to be paid off, there would be only one month's wages due to him, and he would not have in his pocket a large sum of money to fling away in the fashion I have described.

We recommended that the same system should be introduced into the merchant service. These substantially were the recommendations in the report we laid before the President of the Board of Trade. I have stated these recommendations at some little length, because I want to show you how completely what this Association advised should be done has been done during the past Session by Parliament. The present President of the Board of Trade introduced a Bill early in the Session for the purpose of abolishing the advance note, for securing immediate payment of wages on the crew being discharged, besides some other useful legislation as to lodging-houses for the men. When the Bill was in Committee, I, on behalf of the Association, moved an additional clause providing for the allotment notes of which I have just spoken. It was the first time I had the task laid upon me to move any amendment on a Bill in the House of Commons, and having to rise, as I did, just as the clock struck three in the morning, which is about the hour at which the House gets into Committee on Bills of a secondary class, I naturally felt some diffidence as to whether I should be able to command any attention from the House at such an hour on a very technical question with which many members would be totally unacquainted. But it is a real testimony to the zeal which the House of Commons shows in the discharge of its legislative duties, and to the particular interest which, to its honour, it has now for years taken in the well-being of the merchant service, that I was listened to with the greatest attention; and although the Treasury bench for a short time felt disinclined to risk their Bill, as they thought, by adopting this additional provision, the feeling of the House was so strong that when I intimated I should divide on the

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amendment, the Government gave way and added the clause to the Bill, and it is now on the Statute Book as part of that valuable measure. I hope, therefore, that as regards the condition of the merchant seamen it will be admitted that the opinions of this Association, formed in no hurry, on no crotchet, as it is the habit to call it, but as the result of extensive inquiry among, and a large amount of information obtained from, those best acquainted with the subject, opinions finally embodied in a report, do at any rate sometimes command the attention of the Legislature, and are finally placed upon the Statute Book of the country.

There was another important measure passed by the Government, to their great honour, with regard to merchant shipping, and that is the Grain Cargoes Act, enacted for the purpose of preserving the lives of seamen, who are engaged in a dangerous occupation. I wish to say one word in connection with that measure as to an observation that was made when it was read a third time and passed in the House of Commons. An honourable member of the House, who is himself a shipowner, rose and protested against measures of that nature being passed by Parliament, on the old ground, with which we are all familiar, that you have no right to interfere in any way with private trade, and that you should leave shipowners and seamen to take care of themselves and to settle their own contracts. That is always an admirable argument, provided only you ensure the condition that both sides to the bargain shall be equally strong, equally able to take care of themselves—to ensure, in fact, that a poor seaman at a port, with a wife and family to maintain, and out of employment, is able to determine in what ship he will sail, to ascertain for himself exactly whether the cargo is stowed in safety and whether the ship is altogether seaworthy. Otherwise it is the duty of the State, in its care for the lives of its citizens, to see that any trade, any occupation, which is unavoidably attended with danger, is secured from that danger as far as human provision can secure it. The observation of the honourable member I quote as a remarkable instance of what seems to me to be the fallacy so often indulged in with statistics. He said: 'It is absurd for Parliament to legislate for the lives and health of the merchant seamen. Independently of all other considerations, I will show at once to the House that the mortality among merchant seamen is very small—only a fraction above the general mortality of the country.' And the hon. gentleman then produced figures showing, what no doubt was true, that the mortality among merchant seamen is just a fraction

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above the average death-rate of the United Kingdom. I daresay it is possible that there were some who listened to him who thought that this was a very powerful and conclusive argument. Allow me to point out, as many of you would perceive the moment the statement was uttered, that the mortality of merchant seamen is the mortality of men in the prime of life, ranging, we will say, from something like sixteen or eighteen to forty-five or fifty years at the utmost. The mortality of the United Kingdom, on the other hand, is the mortality of the whole population, including children under five years of age, among whom, lamentable to say, mortality has always been, and is to this day, tremendous, the mortality also of age, old people dying off in the inevitable course of nature, as well as all those who are exposed to zymotic diseases of every kind, from which seamen, from their occupation, ought, for the most part at any rate, to be free. If the hon. member had used these statistics in what would have been the true way, he would have taken care to compare the mortality of the merchant service with the mortality of adult males among the population, say between the ages of eighteen and forty-five; or if he had wished to draw a still closer and truer comparison, he would have done well to compare the mortality of merchant seamen with the mortality of the seamen in the Royal Navy, men of the same age, men engaged in exactly the same occupation, men for the most part exposed to the same vicissitudes of climate and weather; and if he had done that it would have become apparent that the death-rate among adult males of the ages mentioned is at the most a third below that which is exhibited by the adult males engaged in our merchant shipping, and that the mortality in the Royal Navy is rather less than one-half of that in the merchant service. I think you will agree with me that it is necessary to watch statistics. I had the honour of pointing out not long ago to the Statistical Section of the British Association for the Advancement of Science that if you use statistics in a truthful and accurate way, if you compare like with like, and take care to sift and verify your figures, then beyond all question statistics are as valuable to the legislator and to the economist as the chart and the compass and the lead are to the navigator. They will point to the right road with unerring finger; they will tell you when you are in deep water, and when in shallows; they will warn you off rocks and quicksands. But if you use statistics in the way I have just exposed, then they become like the false lights on the coast, which lure the seaman to his doom.

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Now, there are two other measures that were passed last session on a subject in which this Association has always taken a great interest—namely, the means of thrift for the working men of this country. One of these is the Postal Money Orders Act, which has been passed for the purpose of enabling small sums to be transmitted from one part of the kingdom to another with complete safety, and with a facility which by no other means probably could be obtained. A great deal was said at one time against the Bill, it being believed that it would introduce what would unquestionably be a great evil, a system of small paper currency of uncertain amount, which might be consequently liable to depreciation in value; but I must confess, when I came to look into the Bill, I felt that no danger need be apprehended upon that score. It would be strange, indeed, if any persons with brains in their heads—and most of us, so far as our money interests are concerned, have a sufficient glimmering of reason to know what is best for us—if, I say, any persons with brains took out a number of these orders, paying a penny or twopence for each of them, in order to start a small paper currency in this country; it is manifest there would be a loss to any one who undertook any such proceedings. Of the same nature was the Savings Bank Bill, which has been passed by Mr. Gladstone, the great object of which is to improve the present condition of our savings banks system, and to increase the facilities for depositors. Now, I cannot help remembering that it was at one of the first meetings of this Association—at our Liverpool meeting in 1858—that the scheme of a Post Office Savings Bank was first brought before the public, and that it was again introduced in the following year by Mr. Sikes, in a Paper in which he elaborated a great scheme; and I venture to believe that, though to Mr. Gladstone's financial genius, and to the way in which his proposals on the subject were received in the House of Commons, the real merit of that great improvement is due, some small praise may be fairly given to this Association in connection with this invaluable means of holding out an opportunity of thrift to the people, for having, before it was taken up by Parliament or by any statesman, perceived the importance of the subject, and placed on its programme a Paper advocating a system of savings banks in connection with the various post-offices in the country.

I am desirous, next, of saying one word upon a matter on which, I believe, some misapprehension has existed in the public mind as to the policy and proceedings of the Association —I mean with regard to the report which we presented to

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the Government on the taking of the census of next year. On each succeeding occasion since the existence of the Association, we have had a committee on the question, and have made various representations to the Home Secretary for the time being as to the best way of taking the census, and the best form that the different columns of inquiry could assume. On this occasion we presented a report from the Council, and it is quite true that this report contained a recommendation which has been made the subject of some animadversion—namely, the recommendation that there should be a separate column stating the religious belief of each person whose age was entered in the census. As it happens, I did not myself concur in that recommendation, and I am all the more anxious to explain that no such policy as seems to have been supposed was ever intended by the Council, or, I believe, by a single member of it. It appears to have been supposed that there was some theological bias, or idea of that kind, which produced that recommendation. Now, the recommendation came originally from the Statistical Society to us, and it was proposed solely upon statistical grounds. It was urged in the Council by a gentleman, to whom this Association has been much indebted —our friend Mr. Neison, who for some years acted as our secretary, and who is one of the most eminent actuaries in this kingdom—on the ground that every other country in the world, including our own colonies, has a religious census; and that as a matter of curious inquiry and statistical research it was desirable that one should also be taken in this country. That, and that alone, was the ground on which the Council recommended the insertion of this column. I am the more anxious to make that statement for this reason: there are always some kind friends who make suggestions upon everything that an individual or public body does, and some of these say that because the chairman of our Census Committee is known to be a strong Churchman (*i.e.*, much attached to the Church of England, which he has quite a good right to be), this recommendation was meant for a Church of England census. Now, let me tell you this. I was in the chair when the report was brought up, discussed, and approved of. I know well by sight every member of the Council who is in the habit of attending; and I can bear witness to the fact that there were several Nonconformist members present. These gentlemen, at any rate, expressed no opposition, and might be taken, therefore, as at least tacitly to have concurred in the recommendation. The reason was probably that it was well known the Council would have laughed at any proposal to make any recommendation in

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favour of any church or any religious opinion, the idea of those who made the recommendation being that the information when obtained would add to the statistical research of the country. For myself, I believe I am now at liberty to state what my own objection to the proposal was, and is. It is this: while on the one hand it may be very desirable to bring together all statistical facts that are in any way curious or interesting, there are two objections, as it seems to me, to doing so in a census. One is an objection of a purely mechanical kind. It is very difficult to get in a census even all the necessary information which you require. Many people do not like being asked questions, and many people think it a great deal of trouble to fill up the paper; and there always must be considerable toil and responsibility thrown on those who collect the answers to get them together. Now, to add what is not necessary, to add anything that is merely curious or interesting, is to cumber your census returns in a way that I think is at least inadvisable. But I go further than that, and I say that no Government and no Legislature ought, if they can possibly avoid it, to carry any enactment, or to provide any administrative measure, which is out of harmony with the feelings of a considerable portion of the inhabitants of the country, unless it is absolutely necessary for their safety and well-being. Now, it is not, and cannot be, held to be in any way necessary for the safety or well-being of the country, that we should know what the religious opinions of its inhabitants are—I mean in any statistical and accurate fashion; and as it is matter of common notoriety that there are many people who object to inquiries of this kind, I think it would be unwise for Parliament or the Government to add to the census this column, which could do no good, and which, perhaps, doing no harm, would at any rate excite some feeling against what is otherwise a harmless and useful measure.

There was one other Bill before the House last session, on which perhaps you will allow me—though I have already expressed some opinions upon it—to say a few words. I mean the Bill for the alteration of the law affecting the property of married women, which was brought in with regard to England by Mr. Hinde Palmer. I am the more anxious to say a word or two because I want to explain an expression I used in the Section of Municipal Law the other day, which, it seems, was objected to as extreme and, I think somebody said, sentimental in its nature. I said—and I repeat it now—that the law of England with regard to the property of married women, as it exists at present, makes a contract of marriage act as a confiscation of the property of the wife in favour of the husband.

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Now, if that is sentiment, I am sorry for it; although, perhaps, sentiment, when right and founded on fact, is not a very harmful feeling. But to say it is extreme in the sense that it is more than the truth, is a criticism on my words to which I am anxious to make some reply. I will put the matter very shortly, and then leave you to judge for yourselves whether or not the language I used is justified or the contrary. Take the case of an unmarried woman who has 5,000*l.* of her own lying at her banker's. She is going to be married. Up to the moment she enters the church for the purpose of going through the marriage ceremony, she can do what she chooses with the money. She can draw it out at her own pleasure, give it to anyone, spend it for herself, or keep it for herself. When, in half-an-hour's time, she comes out of the church, she no longer is the owner of that money. She can no longer draw it out at her own pleasure, or spend it as she chooses. On the contrary, her husband, if he thinks fit to do so, can draw it out from the bank, and if he likes, spend it all that evening at the gaming table, and there is no one who can say him nay. There is nothing in the law of the country to forbid it. Is that, or is it not, confiscation of the money of the woman in favour of the husband? England is the only country in the world in which that can take place. The judgment of the whole civilised world is arrayed against the law of England in that particular; and I ask with confidence whether it is possible to suppose, when the question is fully understood by the people of this country and by the Legislature, that the present state of the law will be suffered to continue. I know it will be said at once—for there is always an answer to everything—'Oh, the 5,000*l.* ought to have been settled.' No doubt there is that perfectly true, and to a certain extent satisfactory, answer to make in a case of the sort. A woman who is worth 5,000*l.* can undoubtedly afford a settlement. She can afford to have a family solicitor and a deed of settlement and counsel's fees, and stamps and the luxury of trustees, with all the quarrels and all the troubles to which they lead, and the tying up of her money from her control. In addition to all that, she can often afford to have what is perhaps the greatest luxury of all—that is, the prospect of a chancery suit looming finally in the background. But the question I put is this, suppose that instead of being 5,000*l.* it is 5,000 pennies, which, to the woman who has earned them or inherited them, are just as dear, as much her own property, and just as much entitled to protection as if they were 5,000*l.*, how can a woman with 5,000 pennies have a marriage settlement? Why, the whole sum would be

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swallowed up in the lawyer's bill and the expenses of the deed. She cannot guard her interest. She has no power by any settlement, or any resort to a Court of Equity, to protect her own pecuniary interest in that way. What I say is, and I defy any man who has approached this subject—and I am sure many will approach it—in a spirit of sincerity and truth, to deny that the very fact that the rich woman has the means, by the expensive processes to which I have alluded, of guarding her own interests, is a most forcible argument in favour of the contention that the law ought to provide for the poor woman, and protect her small fortune from the hands of her husband if he is inclined to lay hands upon it. I have seen with my own eyes, as a magistrate, numberless cases in which poor women, who had all their lives honestly earned their livelihood, and were willing to support, not only themselves and their children, but their husbands too, if they would only let them alone, have had every shilling of their property and earnings swept away because there was no means of affording them protection short of separating from their husbands and coming to the magistrate for a protection order. I hope that the subject is about to be more clearly understood than it has been. No man alive holds more dearly than I do the sanctity of the marriage tie and the blessing of unity in the domestic life. There ought to be, no doubt, no such question as this between husband and wife. When real affection subsists between them, and it is a union of heart and soul as well as of mere hands, there is no question; but who among us ever dreams of sending a sister or a daughter, or any one in whom we are interested, away into the married state without taking care that in the present state of the law some secured provision, if possible, is made for her. All I ask is that the law shall make that provision for those for whom no provision is or perhaps can be made. All I ask is that the law, instead of saying to a woman, 'When you go through the marriage ceremony all that you have becomes your husband's,' which is what the law does say at the present moment, shall say, 'The effect of your having gone through a contract of marriage with a man shall not alter in any way your rights in your own property: it shall be yours still. If, when you marry, you like to give it to your husband, it is open for you to do so; if you like to tie it up by settlement, it is your own concern; but it shall not, by the mere operation of the contract of marriage, come to pass, without any will or word of yours, that your money shall go from you into the hands of your husband.' Now, is that reasonable, or is it not? I say the present state

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of the law is utterly unreasonable. When some, in reply to complaints of the present state of the law, which the whole world will perceive is a rampant injustice, talk of the blessings of unity and the sanctity of married life, it is they who are invoking a sentimental idea in answer to what is really a practical question. It is a most blessed thing to dwell together in unity; but we are all in the habit of thinking that the blessing is much more likely to be ensured when justice is done to both parties than when it is done on one side, and nothing but injustice is done on the other.

There have been several other important subjects considered in this Congress, but I can allude only very lightly to them. However, there is one as to which a great deal of discussion has taken place of late, and a great deal of public opinion aroused. I mean the subject of the treatment of juvenile offenders. In the year 1856, a society called the National Reformatory Union—which long ago wound up its affairs, having accomplished all its objects—was formed, the main desire of whose promoters was to do away with the scandal that then existed of young children, sometimes of the most tender age, being placed in the dock at Courts of Assize or Quarter Sessions to be tried by indictment for serious offences. It was then urged that the proper place for those children was not the dock in our criminal courts, and not our county or convict prisons, but in schools adapted for their particular wants, and existing under voluntary management, though subject to Government inspection; and it was owing to the exertions of that society that the Reformatory Schools Act was passed, and that reformatory schools sprung up in all directions over the country. Now, that has undoubtedly remedied a large part of the mischief. We do not often now see any child of tender age indicted for an offence. But there is no doubt that considerable difficulty has been felt as the public conscience grows, happily, more sensitive on the point, and the difficulty is increasing, how to dispose of children who for less offences are subject to the summary jurisdiction of the magistrates. And I am very glad indeed to see so much public attention has been lately turned to the question whether or not magistrates ought to send children to prison. I can speak with a clear conscience upon that point, for I am glad to say that during some ten years of tolerably active work as a magistrate, I have never yet sentenced a child to prison. But I am not the less aware that there are many difficulties which surround the subject, and which will be required to be carefully considered. Many believe with me—and I am glad to find that in that belief

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the Repression of Crime Section supports me—that there is, at any rate, one step which ought to be taken at once, viz. that the imprisonment of a child previous to its being sent to a reformatory school ought to be abolished. More than twenty years ago that subject was deeply considered by those who had charge of the reformatory schools throughout the country, and a large minority were even then in favour of doing away with the previous imprisonment. Among that minority there were two persons whose names will always be remembered in this Association, not only for their knowledge of all questions relating to youthful crime, but for the humanity and perseverance with which they impressed their views on the public—I mean Mr. Matthew Davenport Hill, the late Recorder of Birmingham, and Miss Mary Carpenter; and both of these, to my knowledge, so long ago as the year 1856, persistently urged the expediency of sentencing a child straight to a reformatory without previously sending him to prison. Unhappily, as I think, other views prevailed. It was thought that a child ought to be punished, and that when a crime was committed vengeance, as it were, should follow. Irrespective of the unsoundness of the principle, I may point out this: Is it no punishment to the child to go straight to a reformatory school; to be taken away from its parents and family, to be kept to tolerably hard work, and to be subjected to strict discipline for a period of several years? That is the punishment, and the natural and just punishment, combined with mercy and wisdom, to train it right, and save it from crime hereafter, for a child who has been convicted of felony. But, when you come to the question, then, what are you to do with children who are brought before magistrates for various offences that may be dealt with summarily, I find myself somewhat at issue with many whom I have heard speaking upon the subject, and many whose letters I have noticed of late in the public press. I quite agree with them that it is most inexpedient to send those children to prison; but, on the other hand, I cannot agree with them in the opinion which has been so fully expressed, that the best thing you can possibly do to a child in such circumstances is to inflict corporal punishment on the spot. I by no means say that there are not cases in which such punishment may not only be justified but may be most advisable. Assuredly there are; but I venture to say that, in the great majority of cases—and I say so from inquiry, which it has always been my custom to make when a child has been brought before me for any offence—the real blame for the habits of the child, and consequently for the offence which has

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been committed, has been neglect on the part of the parents. I say the parents are the persons who ought in the first place to be dealt with when a child is brought before the magistrates. That the child may have been to blame is likely enough, but if the error on its part has been more of the childish kind, it should be dealt with in a childish way, by reproof and admonition and better training for the future; not by anything in the way of punishment under the criminal law. And I believe that by far the best plan in the great majority of such cases would be to bind over the parents in sureties for the future good behaviour of the child, with a distinct intimation to them that if the child is again found in mischief, unless they can clearly show that they have taken all reasonable care to prevent the mischief, they will be held answerable and liable to be fined by the court. In some cases I believe that it might be necessary to go so far as to send the child to prison; but I believe these cases to be very few, and I for one cannot help thinking that so far from Sir William Harcourt deserving the criticisms to which I see he has been subjected, he ought to have the thanks of the whole public for the moral courage he has shown in taking up this subject, and in bringing his influence, as Secretary of State, to bear on the magistracy to induce them to hold their hands from giving sentences of imprisonment to any young child.

There was a paper read in the same section which has caused considerable interest here. On the facts contained in that paper, and even on the conclusions drawn from those facts, I wish to say very little. I refer to the paper read by the Chief Constable of this city, on the mode in which sentences are passed here in the Police Court. Now, I am always very careful in expressing an opinion on the conduct of any judicial authority, because having been often myself unjustly criticised when acting judicially, I am very chary in passing criticisms upon others. I only say this, that in all institutions it often happens that, owing to want of reflection, and even often owing to the pressure of business, a state of things may grow up to which it is advisable to call attention; and I am quite sure that the public attention which has been called to the mode of passing sentences in Edinburgh will be productive in the future of good results. When we met in Glasgow a few years ago, the attention of the same section was called to a curious practice which was then in force in that city, by which when a number of persons had been taken up over night for drunkenness, and been shut up in the cells, they were released, not by the magistrates, but by the police,

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on the following morning on the payment of a fine of five shillings. I ventured to comment upon this state of matters in my concluding address in that city, and the consequence was that the then Lord Advocate at once interposed, and, I have no doubt whatever, put an end to the system. I have equally little doubt that, without any intervention whatever from any authority, the magistracy of Edinburgh will take care that no future comment can be made upon any of their proceedings in the transaction of judicial business. It is not the least use of this Association that, in the different localities in which we meet, attention is called to certain local questions which otherwise might escape observation, in meetings which, as you may have seen for yourselves, are at once perfectly open and perfectly impartial, where every opinion may be ventilated, and every fact stated, and where every one whose conduct may be incriminated has an opportunity of a fair hearing in reply.

I wish also to call attention to the resolution that has been passed in the Public Health Department in favour of the increase of the areas for sanitary jurisdiction in Scotland. I am quite sure that they are required, from what I heard in the discussion; and I am all the more glad because I hope that some moral effect in respect to England will be produced by that resolution. We also in England are greatly in need of the extension of our sanitary areas, and I hope that the resolution adopted here may induce our Council to take up the subject, not for Scotland only, as I am sure they will, but for England also. There is another great improvement you have made here in Scotland, which I trust will be extended over the whole kingdom—viz., the registration of infectious diseases. I am glad to hear that in the Health Section a resolution has been passed on that important subject. I have learned with great satisfaction that in this city and in the town of Greenock there is, under local Acts, a regular system of registration in all cases of infectious diseases, supplied by the medical profession. We have again and again in the Council of this Association urged a measure of this kind upon the Local Government Board, always hitherto without success; but now that we can quote the good working of the system in these two important places, now that we can say that it is possible, that there is none of that reluctance which was supposed on the part of the medical profession to give information when they are fairly and justly treated, I hope we may be successful in carrying a measure which shall apply to the whole of the United Kingdom for the registration of those diseases

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which sweep off so large a portion of the population, especially of the young. The discussion on the pollution of rivers will, I am sure, lead to some good. Both with regard to that nuisance, and with regard to the smoke nuisance, the Council have again and again addressed representations to the proper authorities, and I hope that the great authority of Sir Robert Christison, who states so clearly that this pollution can be prevented, and therefore ought to be prevented, will have its effect on the Legislature in inducing them to pass some more stringent Act for the purpose.

Now, I might dwell on various other topics, but I do not intend to weary you by so doing. I only desire, in conclusion, to say that during the past year we have sustained numerous losses of many distinguished members of this Association, and I think it would hardly be fitting if I did not make allusion to one or two of them. We have lost from our ranks one who, though he never took a very active part in our proceedings, did sometimes give us sound and valuable advice, and especially upon Indian questions—I mean that greatest of all Indian statesmen of our own day, the late Lord Lawrence. He attended our Glasgow meeting in 1860, and took some little part in its proceedings; and from that time until his death was a member of the Association. When we had any Indian questions before us, his advice was always at our disposal. I had the happiness to see Lord Lawrence just after his return from his Indian Viceroyalty, and I shall ever be glad I then heard from his own lips, in his own library in South Kensington, a wonderfully lucid and careful statement of the policy which he considered ought to be pursued in regard to India generally, but especially with regard to the connection between India and Afghanistan. As you know, he held those views firmly to the end of his life. I enter into no controverted questions on that point on this occasion; but I only say this, that I wish some of those who have taken up so warmly the opposite view, could have heard, as I heard in private, the words Lord Lawrence used when speaking upon that subject, and the intense earnestness with which he urged—I might almost say besought—that under no circumstances, and to subserve no policy, should we ever push our armies into Kabul again. Lord Hampton, who died this last year, was an old and valuable member of this Association. He more than once served as president of a section, and he presided over the whole Association at our Leeds meeting in 1871. I would say this of Lord Hampton, having known him well as a neighbour and friend for a great number

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of years, that I never met a man who was more in earnest upon the subject of national education. It is a singular testimony to his honesty of purpose and his independence of mind, that many years before even the nation at large had come round to what I will venture to term a statesmanlike view of the education question in England, he, as Sir John Pakington, had urged upon the House of Commons from the Conservative benches a series of resolutions, which, to a considerable extent, foreshadowed the present education system—that is, the maintenance of schools out of the rates, making them free to the whole body of the people, and free from any sectarian management. That was a wonderful forecast of the future by a man who, in his natural associations, it might have been thought, would have been considerably fettered upon such questions. But no more upright man ever lived than Lord Hampton. No man ever lived who, when he had made up his mind on a question, was less afraid than he to speak it out, whether in the House of Commons or elsewhere. I wish also to allude to the death of Dr. Wines, an American, who was one of our foreign corresponding members, and who had, I thoroughly believe, done more than any man of our age to improve prison discipline, and to spread a knowledge of its true principles throughout the various countries of the earth. He was constantly travelling for that purpose, and his great knowledge was always at the disposal of everyone of any country who desired to obtain his advice, and it was owing to him that the great meeting at which I had the pleasure of making Lord Reay's acquaintance —the International Prisons' Congress—was held in London in 1872. There is one other old member of ours, and a former president of a section, of whom it is almost unnecessary for me to speak here, because he was so much better known in Edinburgh than he was elsewhere—I mean the late Professor Hodgson. He rendered most valuable service to us, both upon educational and economical questions, and I can say of him that I never knew a man whose abilities and whose attainments I more admired. They were singularly varied and diversified. His knowledge was wonderfully accurate, and he had the gift of stating the principles of economic science, which cannot always be popularly rendered, in a singularly clear and striking way. There are many other deaths to which I might allude. I can assure you, that to me who can remember this Association from the outset, who have attended every meeting, it is no small sorrow to see the list of our oldest members year by year becoming thinner. They pass away. But the real consolation to us is, that the Association lives, and that we recruit

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young blood, who will carry on the torch that has been handed down to them by those who have gone before. It is with singular satisfaction, to my own memory, that I have seen at this Congress Sir U. J. Kay-Shuttleworth in the chair of one of our sections, a chair that his father filled before him. Sir James Shuttleworth, whose services to education and to public health were beyond all praise, through many years of a long life, was an ardent supporter of this Association. He did everything in his power for it, and was always my own true and personal friend; and there is nothing more consolatory, more reassuring, than to see a good son walking in public life in the steps of a worthy father. But the great cause of congratulation in connection with this Congress—and I hope he will allow me to say it in his presence, for he knows that it is but the sincerity of friendship—has been the presence and presidency of Lord Reay—in whom we have one of the most valuable recruits. I am quite sure his Lordship will never leave us, and that we shall have in some shape or other the benefit of his intellect and his great attainments for the future. Although I for one hope, and I am sure all here do so, that the country at large may have the advantage of Lord Reay's services in other capacities, he will never be more warmly welcomed, nor do I believe will he ever serve his country with greater satisfaction to himself, than in the ranks of an Association which feels honoured by his presence, and which knows how to estimate aright the intellectual gifts which he has brought to ornament its proceedings.

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SELECT PAPERS,

NOTICES OF PAPERS,

DISCUSSIONS,

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JURISPRUDENCE

AND

AMENDMENT OF THE LAW.

INTERNATIONAL AND MUNICIPAL LAW SECTIONS.

DOMICILE OR POLITICAL NATIONALITY?[1]

Should the Law regarding Domicile be Amended:—(a) As to the Ascertainment of Domicile by Registration or otherwise; (b) As to the Substitution of Political Nationality for Domicile, where practicable? And is it practicable and expedient that such Amendments should be embodied in International Treaties? By JOHN WESTLAKE, Q.C., LL.D.

THE attention of Parliament is occupied, next to political questions, with those amendments of the law which it falls within the province of some Government department to bring before it. Such are the amendment of the Criminal Law, which belongs to the Home Office, and the Merchant Shipping Acts, which belong to the Board of Trade. There are, however, non-political questions which it is the duty of no one in particular to bring before Parliament, except so far as the Lord Chancellor for the time being may assume the position of a Minister of Justice; and with these questions it fares ill. Parliament has little time left for them, and any private member who may introduce them has first to combat the unexpressed, but strongly felt, presumption that what the Government does not take up can be of no great consequence. It would seem therefore that to promote amendments of the law of this class is one of the most useful services that our Association can render; and the law of Domicile, to which I have to direct your attention to-day, belongs to the category, and stands much in need of amendment.

[1] See *Transactions*, 1879, p. 41; 1860, p. 236.

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In England, Scotland, and Ireland, the domicile of some party concerned in the case, or related to it, is continually referred to with regard to guardianships and curatorships of infants or minors and their property; the capacity to marry or to enter into any other contract, whether such capacity be questioned on the ground of minority, or, in the case of marriage, on that of consanguinity or affinity, or the want of the consent of parents or guardians; the effect of marriage on property; the legitimation of children by the subsequent marriage of their parents; divorce; the succession to movable property on death, whether in cases of testacy or of intestacy, and the legacy or residuary duty payable on such succession; bankruptcy; the transfer of property not at the time within any territorial jurisdiction; and the enforcement of foreign judgments. It must not be supposed that domicile governs the whole of each of these subjects, or that there are not some of them with regard to which a doubt exists whether it is at all in point; but it certainly governs nearly all of them to some extent, and some to a great extent; and there is at least none in the list to which it may not fairly be argued, on British judicial authority, that domicile is more or less relevant. And a similar statement as to the importance of domicile in legal questions may be made for the British Empire generally, and the United States of America. On the continent of Europe the determination of the before-mentioned matters according to domicile was more firmly established than it mostly is in British law, and in some countries this is still the case; while in others, especially in France and Italy, political nationality has been adopted as giving the rule for them. Thus the intrinsic validity and operation of a will of movable property, and the question who shall succeed to movable property on the death of its owner intestate, are decided in England and Scotland by the law of the deceased's domicile, and the rule of the Prussian code is the same; while in France and Italy the decision would follow the law of the country to which the deceased belonged by political nationality.

Now it will be seen at once that political nationality is inapplicable as a criterion between countries like England and Scotland, which belong to the same State though possessing different laws. Thus, to take an example from movable successions—about which there is no question anywhere but that either domicile or political nationality must govern—if a British subject, having more or less connection both with England and with Scotland, dies intestate, it is only by means of the former criterion that it is possible to determine whether his movable

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property shall go by English or by Scotch law. To this extent domicile must be, and is, respected even in a country like France or Italy, which draws its general rule from the political character. Supposing our British subject to leave movable property in such a country, his political character may be referred to so far as to determine that it shall not go by French or Italian law; but domicile alone can decide between English and Scotch law. But this still leaves a wide range of cases in which a choice is possible between domicile and political nationality. For instance, a Frenchman establishes his domicile in England. Shall his authority with regard to the marriage of his children, and the distribution of his movable property on his death, be decided as at present by the law of his English domicile, or, according to the newer Continental rule, by that of his French political character? An Englishman establishes his domicile in Spain or Portugal, and dies there. Shall any movable property which he may leave in the United Kingdom be governed as at present by the law of his Spanish or Portuguese domicile, or, according to the newer Continental rule, by the law of England, as being that in favour of which the arguments drawn from his political nationality and his original domicile coincide? This is the second branch of the question before us to-day: *Should the law regarding domicile be amended by the substitution of political nationality for domicile, where practicable?*

In order to explain the first branch of our question, I must ask you to consider more particularly the legal meaning of domicile, which it has been sufficient thus far to understand in the rough and ready sense in which it is nearly equivalent to permanent residence. It is often necessary to take the domicile of children into account, and about this there is little difficulty, as it will generally be that of their parents. But suppose that a man of full age goes to reside in another country: will he, by doing so, have changed his domicile? First, it is now agreed, though formerly a different opinion was entertained, that the domicile will not be changed unless the new residence be intended as a permanent one. But here a wide door is opened to controversy, as well from the difficulty of deducing a person's intentions from the ambiguous or conflicting indications that his sayings and doings may present, as from the fact that, if the person's mind were laid open in the fullest manner, it might be found to contain no intention relating to the permanence of his residence in any spot or country. Next, a person may have residences, each really permanent, in two countries governed by different laws, as England and Scotland;

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or having distinct treasuries that may claim duty on his succession, as two Australian colonies. Here, if neither of these residences happens to be the domicile of origin, the preferable claim to be considered the domicile must depend on the intimacy of the person's connection with them respectively; and the vagueness of this question presents a difficulty which would remain if the person's intentions were clear and the proof of them certain.

All this will lead even a layman to anticipate the result which every lawyer will assure him is found in practice, that questions of disputed domicile are at once among the commonest that arise in law, and among the most tedious and costly to determine. Since there is scarcely an act of a man's life on which an argument may not be founded with regard to his intentions or feelings in relation to his residence, an inquiry into domicile is usually the occasion for producing a mass of testimony extending over the whole history of the person in question, as well as a mass of documents and letters in which it is hoped that his thoughts may be traced. And often the inquiry is not limited to a single life, for where the man's own actions lead to no clear result as to his choice of a residence, it becomes necessary to ascertain his domicile of origin, which, being in general that of his father, may give rise to a similar doubt, to be solved only by a similar investigation into his father's life. And there are even cases where the inquiry has had to extend over three generations. Then, since from such materials and under such conditions the greatest industry and intelligence can often produce but an unsatisfactory conclusion, this class of cases is one peculiarly provocative of appeals. Indeed, where domicile is disputed, if the parties stop short of the House of Lords, it is generally only because the pecuniary means for going further fail.

But suppose that a decision has at last been arrived at, and is not unsatisfactory so far as the mere fact of permanent or preferable residence is concerned. Is there not remaining a deeper ground of dissatisfaction, namely, that the real matter at stake should be made to depend on residence at all? A man goes to a warmer climate for the sake of health, knowing that it will never be safe for him again to live in the North, and accordingly intending to spend the rest of his days in the South, where however he may expect that with due care many years of existence are before him. His relations, even his own children if he has any, are in England or Scotland. Is it reasonable, because he has been obliged to transfer his own individual residence, that he shall lose the power which his

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native law would give him, of freely dividing his movable property among his children? or that, if he dies intestate, a foreign law shall intrude itself into the division of his movable property among a family that remains English or Scotch? Or take the case of a Scotchman whose occupations have led him to London, and who dies there intestate under circumstances which oblige a court to conclude that London was his permanent residence. There are points in which the English and Scotch rules of distribution differ. For instance, if all the next of kin are nephews or nieces by different brothers or sisters, the English rule calls them to the succession *per capita*, the Scotch rule *per stirpes*. The deceased probably omitted to make a will because he approved of what he supposed would be the legal destination of his movable property; but is it not much more likely that he simply contemplated the destination which his native Scotch law would give it, than that he inquired whether the law of England would give it a different destination? and, if so, which would prevail? When can he be imagined to have made such an inquiry? When he first accepted a clerkship or a partnership in London, or at that subsequent imperceptible moment when the balance of his actions and habits would be likely, in the opinion of a future judge, to have turned in favour of an English domicile? Either way, the supposition seems absurd.

So strongly has the impropriety of making these legal questions depend on residence been felt, that in the well-known case of 'Moorhouse *v.* Lord,' decided by the House of Lords in 1863, Lords Cranworth and Kingsdown boldly laid down that domicile in the legal sense is not changed, unless in addition to the change of residence there be a distinct intention to change the domicile with its legal consequences, or at least an intention to reside in the adopted country as a settler in it and countryman of it. It is still doubtful whether this doctrine will be finally accepted. Lord Cranworth announced it as a modern and improved view, thereby departing from the common practice of judges, who usually do their utmost to conciliate the devotees of precedent by hiding the novelty of any rules they feel constrained to make. But if it should be finally accepted, it would cure even in theory only one of the evils to which I have drawn your attention, that of allowing reasonable wishes and expectations to be defeated by changes of residence which were never meant to sever the connection with the law or the social opinions of the native country. The intention necessary for a change of domicile, though different under the new doctrine from what it was

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under the old, would have to be collected with similar difficulty from the sayings and doings of a man's life, and in practice error as to it would continue to be very possible; while although the allegation of a change of domicile would be discouraged, and therefore litigation on the subject would be less frequent, such litigation would not be less tedious or costly when it arose.

You will now understand the view with which the first branch of the question before us to-day has been proposed: *Should the law regarding domicile be amended by providing for the ascertainment of domicile by registration or otherwise?* An example of what may be attempted in this manner is given by an Act of Parliament passed in 1861, on the motion of Sir W. Atherton in the Commons and of Lord Westbury in the Lords, empowering her Majesty to conclude with foreign countries conventions on the basis of reciprocity, by which residence in the adopted country for one year preceding the death of a testator or intestate, together with the public deposit of a written declaration of a desire to change his domicile, shall be made conditions of a change of domicile for all purposes of movable succession. I believe that no convention has been concluded in pursuance of this Act, but let us consider what the scheme on which it is framed would effect if carried out. The evil of disappointing just expectations and wishes, through allowing the enjoyment of a movable succession to be affected by a change of residence which in the mind of the testator or intestate had no connection with such a result, to which the House of Lords in its judicial capacity could only apply a remedy liable to fail in practice, would receive a perfect cure through the provision which denied such an effect to a change of residence, unless the testator or intestate had deposited a written declaration of his desire to change his domicile. The tedious and costly, and at best uncertain, inquiry into intention would be put an end to, because no intention would be of any value which the testator or intestate had not expressed by an unambiguous declaration. It would remain impossible, as it should do, for the person to change the law to which his property was subject by a mere declaration, because the transfer of his residence would still be necessary to the transfer of his domicile, the declaration being an additional and not a substituted condition. Indeed the requirement that there should have been a year's residence in the adopted country would prevent the domicile from being changed as soon as in some cases it now is, it being now sufficient that the new residence shall have been commenced,

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if the necessary intention be proved. But that requirement cannot be considered unreasonable, since it would tend to prevent a person's changing, without due time for reflection, the law to which his property was subject, especially if it were made necessary that the year's residence should precede the deposit of the declaration.

I submit that, as between the different portions of the British Empire, the scheme of the Act of 1861 would be a great improvement on the present state of the law, and that, since no convention would be necessary to introduce it to that extent, steps ought be taken to introduce it at once. For the United Kingdom a short Act of Parliament would be all that was needed. For the colonies and dependencies an Act of the Imperial Parliament would also be sufficient; but in the case of the more important of them, as to which the imperial legislative authority has been allowed to fall very much into desuetude, it would probably be thought better to recommend the change to their own Legislatures by advice and example. Only I would observe that there is no reason for insisting on reciprocity in this matter as between the United Kingdom and its dependencies. If we are convinced that the new rule would be more just than the old one, say as between England and the province of Toronto, the British Parliament may well direct the courts of this country not to treat the movable succession of a native of Toronto as having become English, in the absence of a year's residence and a written declaration of change of domicile, even though the Legislature of Toronto should delay to give a corresponding direction to the courts of the province.

The literal pursuance of the Act of 1861, by concluding conventions with foreign States under its powers, is scarcely possible as far as Europe is concerned, because, as already mentioned, the modern movement on the Continent is towards the substitution of political nationality for domicile as the legal criterion in those matters which in the United Kingdom are still referred to the latter. If our Government were to propose a convention under the Act of 1861, say to France or Italy, the answer would be: 'We are quite alive to the evils of the old system of domicile, but we have already applied a remedy by discarding that system as far as possible. We regulate the personal capacity and status, the movable succession'—Italy might omit the word movable—'and so forth, of a Frenchman or an Italian, by French or Italian law; of a British subject, by the law of that part of the British Empire in which according to your rules for the time being he was last

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domiciled—notwithstanding that what you would call his actual domicile may be in a country politically foreign to him. And we recommend you to do the same. As between the component parts of the British Empire, you need no convention with us to make the necessary amendments in your rules about domicile.' There are, no doubt, some important countries which could not as yet make the same answer. But it is pretty certain that when they move at all it will be in the same direction, and not in that of merely patching up the old system of domicile. It is a significant fact that last month, at Oxford, the Institute of International Law, comprising members actually present from all the six leading European States, and from several of the smaller ones, voted unanimously in favour of regulating both the status and capacity of persons, and their successions as well immovable as movable, by the laws of the countries to which they belong politically, preserving a reference to domicile only where different civil legislations coexist in the same States. Had we not better follow the example and advice?

Now what may be called the system of political nationality does, in fact, meet all the needs for which the Act of 1861 was intended to provide, as fully as they are met by the scheme of the Act itself. All controversy about intention is cut off by requiring naturalisation in the adopted country as a condition of the change of law, as completely as it would be cut off by requiring the public deposit of a written declaration of a desire to change the domicile. The liberty to live abroad without being compelled to undergo one's self, and expose one's successors to, a change of law as incident to a residence dictated by quite other motives, is secured by the law's remaining unchanged till naturalisation, as well as by its remaining unchanged till the deposit of a declaration. And the residence in the adopted country, which is everywhere required as preliminary to naturalisation, and which in this country and in many others is fixed at five years, is a more effectual guarantee than the one year's residence required by the scheme of the Act against an attempt to change one's personal law precipitately, or without a real transfer of one's life and surroundings. It might be added that many of the best Continental thinkers, and especially the Italian school, see an intrinsic connection between the political vitality of a nation and the social organisation expressed in its civil laws, in virtue of which they regard it as highly unsuitable that a man and his property should be subject to the civil laws of a State politically foreign to him. Indeed, they would regard this line of

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argument as entitled to precedence over the narrower considerations which have been now presented to you. I do not wish to be understood as impugning that view; but it is one that does not readily present itself to the lawyers of an empire in the different portions of which almost all the great legal systems of the world are administered, and I will not therefore enter either on its justification or on its criticism in the short time I can occupy to-day. In any case, the considerations that have been presented appear to be sufficient to induce us to adopt the system of political nationality in substitution for that of domicile, so far as the continuance of the latter is not necessary by reason of the coexistence of different civil legislations in the same State.

This brings us to the third branch of to-day's question—namely, *Whether it is practicable and expedient that the changes thus recommended should be embodied in international treaties.* The subject is a branch of what is known to lawyers as *private international law*, or *the conflict of laws*, as to the whole of which few will doubt the expediency of getting uniform rules of decision established in all countries. And when we consider the amount of discrepancy which still exists between the rules followed on it in different countries, after centuries of learned and philosophical treatises and carefully reasoned judgments, few also will doubt that uniform rules of decision can only be arrived at by international treaties, in which each State, without necessarily admitting itself to have been in error, may give up something of its peculiar jurisprudence for the sake of agreement. It may be further taken as clear that if an agreement can be arrived at on any part of so large a matter as private international law, even between certain States alone, it would be wise to embody it in a treaty between those States, without waiting either for the whole subject or for the whole civilised world to be embraced in the agreement. At least this would be so if the treaty were drawn on lines which did not run counter to some tendency manifestly general; for two States which should attempt to prolong by a treaty between them the vitality of a peculiar jurisprudence condemned by general opinion would be hindering, instead of promoting, the end to be aimed at. It would therefore be welcome if this country could embody in treaties the conclusions now arrived at.

But it must be allowed that those conclusions do not constitute a part of private international law about which it would be at all easy to conclude treaties separately from the rest of the subject. What is known as the personal statute, that is, a

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determination founded either on the domicile or on the political nationality of parties, prevails more widely in the domain of law on the Continent of Europe than in the British Isles or in the United States, as I have already had occasion to mention. For instance, when the other day the Institute of International Law at Oxford passed a resolution in favour of the political nationality, as furnishing the general rule for the status and capacity of persons, they thought chiefly of the question between such nationality and domicile. Yet every English or Scotch lawyer knows that on this side of the Channel it would be premature to lay down with such generality that status and capacity depend on either of the two; that other elements of decision are often invoked, as the place where a contract was made or a marriage celebrated, or where the parties had but a temporary residence at the time of a divorce. So long then as the conclusions submitted in this paper remain isolated, the only forms of treaty in which it would be possible to embody them in their entirety would be too vague to have much chance of acceptance. It cannot, for example, be supposed that any State would conclude a treaty declaring that political nationality should be substituted for domicile, when there was a notorious want of agreement as to the cases to which a rule founded on either should be applied. The same objection would not apply to a treaty which singled out that particular undisputed application of the personal statute which was singled out by the Act of 1861. It might be agreed that, for the purposes of movable succession, no effect should be given to any transfer of domicile to a country politically foreign, and that the party which had previously based movable succession on domicile should treat naturalisation in a foreign country as equivalent, for the same purposes, to a transfer of domicile to that country. But here another difficulty may be apprehended, namely, that those foreign Governments which would be prepared to move in the matter at all would not consider this a sufficient step in advance to make it worth their while to take it, unless immovable successions were also comprised in the treaty, to which considerable time must no doubt elapse before England could be brought to agree.

On the whole, then, it would seem improbable that we can do anything for the present, except amend our own law by Act of Parliament, and this in a direction conformable to the manifest tendency of the day, so as to bring ourselves a step nearer to the international unity that should be the ultimate aim. Here too, as in the case of domicile as between different British countries, I see no reason, either of principle or of con-

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venience, which should lead us to wait for reciprocity. To proceed only by mutual arrangement is inevitable where the precise reforms to be made must depend on the arrangement, but it is superfluous when an unmistakable current of opinion points out the reforms to be made. I conclude therefore by suggesting that the laws of England, Scotland, and Ireland, and of such British dependencies as it may be thought fit to legislate for, be amended by an Act of Parliament to the following effect:—

1. That in the countries legislated for, the movable succession of a testator or intestate shall be henceforth governed by the law of the State of which he was a subject or citizen, to the extent and in the manner that the same has heretofore been governed by the law of his domicile; except so far as it may still be necessary to refer to domicile, in consequence of the coexistence of different civil laws in one State.

2. That in any of the countries legislated for, domicile shall not be acquired for any purpose of movable succession unless the testator or intestate shall have resided in such country for one year immediately preceding his death, and shall have publicly deposited a written declaration of his desire to become domiciled therein.

DISCUSSION.

Mr. Joseph Brown, Q.C. (London) expressed his gratification at the manner in which Mr. Westlake had introduced the subject. He believed that, among the many valuable papers contained in the *Transactions* of the Association, this one would hold a high place, and some day in the future, if not at once, it would bear fruit. It bore marks, not only of a wide and deep knowledge, but of a profound acquaintance with the difficulties of the question, which were known alone to those who had practised in matters relating to international jurisprudence. For his own part, when he reflected on the probability of the writer's suggestions being carried out, he felt considerably discouraged at the prospect which appeared to him very distant, since he remembered that the Law Officers of the Crown, upon whom devolved the duty of initiating an amendment of the law, occupied nineteen-twentieths of their time with professional practice, while the other twentieth was employed in preparation for taking part in political debates in the House of Commons. The best chance of any improvement being made in those important points of international law, which put so many parties to expense in asserting their natural rights, was to be looked for at the hands of some of the learned Peers who had passed the greater part of their lives in the practice of the law itself, and who had been removed to the Upper House of Parliament from the stormy atmosphere

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of political debate which so much prevailed in the Lower. He therefore hoped that the paper would not only be printed in the *Transactions* of the Association, but circulated in a separate form amongst the legal members of the House of Lords. The more he thought of the subject the more he was disposed to concur with the views expressed by Mr. Westlake. He was not unconversant with the question, for he had witnessed, as a lawyer, the hardships which the present state of the law had wrought upon persons, who had been deprived of estates naturally belonging to them. In a case on which he had been engaged that hardship was illustrated. A born Scotchman, who had lived the greater part of his life in his native country, married an English lady, and effected an ante-nuptial settlement of £20,000 worth of property upon her in England. This was perfectly good by English law, but the husband had an establishment at the Cape of Good Hope, where he lived and continued his business until ten years after, when he became a bankrupt. It was held by the Privy Council that, notwithstanding he was born in Scotland and married in England, the whole of his settled property, by an ancient statute of the Emperor Charles V., was taken away from his wife and children by the Roman-Dutch law, and distributed amongst his creditors, a thing utterly opposed to the provisions of the English law, which all parties had in view when the marriage settlement was made.

Mr. W. D. Thorburn, Advocate (Edinburgh), considered Mr. Westlake's conclusion a reasonable one—that nationality should be substituted for domicile. It was an easy matter to ascertain the difference between a Frenchman and an Italian in regard to their nationalities, they being quite distinct, but the question became a difficult one when England and the Colonies had to be dealt with; for, although the Colonies might be considered distinct countries, to some extent at least, yet a British-born subject going out to Australia or the Cape of Good Hope, for example, looked upon himself as an Englishman, Scotchman, or Irishman, as the case might be. [The Chairman (Professor Lorimer) explained that the writer of the Paper excluded from the consideration of the question cases arising out of the colonial law and native law.] With regard to the proposal, 'That domicile shall not be acquired for any purpose of movable succession unless the testator or intestate shall have resided in such country for one year immediately preceding his death, and shall have publicly deposited a written declaration of his desire to become domiciled therein,' he, for one, apprehended that such an alteration of the law might give rise to hardships. Take, for instance, the case of a man who at an early period of life left Edinburgh for London, and lived there ever after. Practically he had no further connection with Scotland, knew nothing of Scotch law, and assumed naturally enough that his affairs would be regulated by the English, and not by the Scotch law. Supposing such a man were to forget to make a declaration under the circumstances mentioned by the writer of the paper, such a law as that suggested would occasion hardships as grievous as any arising from the existing statutes. With reference to carrying out the proposed change by treaty, that did not seem to him a suitable mode of determining questions of law. Treaties did very

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well to regulate the political relations of States, but if used for laying down the law they would interpose great difficulties. The various States interested in making treaties might agree as to the clauses, but when these clauses came to be interpreted by the judges of the different countries, they might make mistakes by putting upon the provisions of the treaties conflicting constructions, comparing one country with another. It should also be borne in mind that with treaties there would be a great difficulty in effecting a change in the law. A treaty could not be altered with the same facility as an Act of Parliament was amended. In the latter case, if judges misconstrued the law, the Imperial Legislature soon put them right by passing an amending Act; but in the former instance, if an injustice arose under the working of a treaty, years might elapse before an alteration could be made, because of the tedious process of communicating with the various foreign States which were parties to the treaty, and whose consent must be obtained for the correction of any flaw in its provisions.

Mr. W. Griffith (London) said the question was one of general importance, and might be considered from various points of view. No doubt any alteration required in International Law must be made by treaty, but the matter of domicile involved graver questions and greater difficulties than attached to the subject of nationality, and rather came within the province of the Legislature than of the Executive. Doubtless the Executive had full power to make treaties, but it was a question whether the Executive ought to make treaties which involved points touching constitutional law; and that the question of nationality did touch upon constitutional law would be generally admitted.

The Chairman (Professor Lorimer) expressed a general concurrence with the views contained in the paper, remarking, at the same time, that his opinions on the subject were well known.

Mr. J. Kirkpatrick, Advocate (Edinburgh), sympathised with the speaker who had pointed out some serious difficulties in the way of carrying out Mr. Westlake's proposals, though he was inclined to agree with the writer of the paper that they were difficulties which might be surmounted. In order that the consideration of the subject might have a practical issue, he would move the following Resolution:—

'That this Section recommend the Council to refer the subject and the conclusions of Mr. Westlake's paper on Domicile to the Committee of the Jurisprudence Department of the Association.'

Mr. W. D. Thorburn, Advocate (Edinburgh), seconded the motion.

Mr. Westlake, in reply, said that a rule requiring registration for a change of domicile might work occasional hardship, but he believed that the present rules frustrated the intention of parties in very many more cases. Treaties, it was true, could not ensure absolute uniformity of judicial decision, but the divergence of Courts in construing and applying a treaty would be less than their divergence must be while they have no common basis to start from; and the decisions of all the countries parties to the treaty might be quoted in any of them as testimonies to the common meaning of those parties, which would promote uniformity in applying the treaty. It was not

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proposed to make the high principles, on which national character was determined, bend to those which regulate domicile; but, on the contrary, what he proposed was to make the latter bend to the former. And, as far as he could see, the retention of their national law, so long as they did not naturalise themselves abroad, would be an encouragement, and not a discouragement, to merchants living abroad and employing their capital there.

The Resolution was then put to the Section and was passed.

TRADE MARKS AND COPYRIGHT.[1]

How can the International Difficulty with regard to Trade Marks and Copyright, caused by recent Judgments of the Supreme Court of the United States, best be met? [*See* U.S. *v.* Steffens, U.S. *v.* Witteman, and U.S. *v.* Johnson, reported in 'Albany Law Journal,' December 9, 1879, and in U.S. Supreme Court Reports, 100, Otto X., pp. 82-99. (Boston: Little, Brown, & Co., 1880).] By C. H. E. CARMICHAEL, M.A.

WHEN the news reached Europe that a decision of the Supreme Court of the United States had affirmed the unconstitutionality of the Federal legislation on trade marks, and thereby reduced to practical nullity a diplomatic Convention with France, a very great, and, under the circumstances, a very natural feeling of anxiety was aroused. It is not too much to say that the first effect was one of dismay. Merchants and manufacturers were stricken with alarm, and they turned to the jurists to see if haply some comfort might be extracted from legal acumen. In France, at least, it was not long before the question was taken up by highly trained legal writers, and the result of their researches is now before me. I must say that I think the comfort which they have been able to administer to the mercantile mind is rather dubious, for it does appear to me that, taking into consideration two leading works on the subject from the able pen of M. Edouard Clunet,[2] what the learned editor of the 'Journal de Droit International Privé' has given with one hand, he has taken away with the other. I do not say that this could be avoided. On M. Clunet's contention it was doubtless the inevitable con-

[1] See *Transactions*, 1879, pp. 195, 446; 1874, p. 256, p. xxxvii.; 1866, pp. 119, 243; 1864, p. 113; 1862, p. 866; 1859, pp. 237, 244.

[2] *De l'état actuel des Relations Internationales avec les États-Unis en matière de Marques de Commerce.* Paris: Marchal, Billard, et Cie., 1880.

Du défaut de Validité de plusieurs Traités Diplomatiques conclus par la France avec les Puissances Etrangères. Paris: Marchal, Billard, et Cie., 1880.

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sequence of certain facts. Those who have devoted special study to private international law (and some of the most eminent of them will, I trust, be amongst us at our Edinburgh meeting) will readily recognise the important bearings of the special question which we are here discussing. I may be permitted, perhaps, to say, *in limine*, that my principal object is to raise a question which I have not as yet seen fully discussed anywhere—viz., whether the judgment of the United States Supreme Court, while directly affecting trade marks, does not also, indirectly, by implication, affect copyright? I have no desire to prove an affirmative. I shall be very glad if the negative is satisfactorily proved in such discussion as may follow this paper. But it does seem to me necessary to raise the point, if only to clear the way for future agreement between ourselves and the United States. I gladly acknowledge the apparently steady growth of a public feeling in America favourable to an International Copyright Convention. But it seems to me obvious that if the power of Congress to legislate on copyright belongs to the same class of Congressional powers as trade-mark legislation, such a Convention would not, at present, be worth the paper on which it was written. Therefore, no pains which we can take to ascertain the true state of the case will be too great for the importance of the juridical and commercial interests at stake. From the point of view which I am led to adopt, the question is to a great extent one of American constitutional law. I have endeavoured to study the subject in some of the most recent, and, I believe, authoritative, American text-writers, such as Mr. Eaton S. Drone on 'Copyright,'[1] Dr. Lieber on 'Hermeneutics,'[2] and Hon. T. M. Cooley on the 'Principles of Constitutional Law,'[3] besides the French works which I have already cited. Amongst other sources of information, I would specially name an able article on the Supreme Court judgment in the 'American Law Review' for February 1880, by Mr. W. H. Browne, and an interesting discussion of the same judgment by M. Babinet and M. Renault, in the number for February 1880 of the 'Bulletin de la Société de Législation Comparée" (Paris: Cotillon). It is perhaps scarcely necessary for me to say that I only name these various books and articles which I have consulted, because I have thought it might not be presumptuous to assume that we are hardly likely, even in this

[1] Boston: Little, Brown, and Co., 1879. (London: Sampson Low and Co.).
[2] Edited by W. G. Hammond, with the Author's last corrections. St. Louis: F. A. Thomas and Co., 1880.
[3] Boston: Little, Brown, and Co., 1880. (London: Sampson Low and Co.).

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department, to be as familiar with American and foreign juridical literature as with our own.

I wish, in the first place, to insist upon a fact, perfectly well known, of course, to all constitutional historians and lawyers, that in the Declaration of Independence, July 4, 1776, the several colonies were declared to be 'free and independent States.' For more than a year previous to this date, as Dr. Cooley observes, they had been 'in the exercise of sovereign powers in hostility to the Government of Great Britain; . . . . they now,' he continues, 'severally assumed the position of independent States, limited only by the concessions of authority, mostly tacit, which they made to their general Congress.'

It is thoroughly in accordance with this doctrine of the sovereignty and independence of the several colonies, that we should find, as we do find, State legislation on copyright to be anterior to Federal legislation. Connecticut led the way in January 1783, and Massachusetts followed suit in March of the same year.[1] The Connecticut statute was intituled a 'law for the encouragement of literature and genius.' Its Massachusetts brother, as Mr. Drone justly observes, testifies in a remarkable manner to the breadth of view then prevailing on the subject of intellectual property in the newly-constituted States. It was intituled an 'Act for the purpose of securing to authors the exclusive right and benefit of publishing their literary productions for twenty-one years.' But the preamble is the part to which Mr. Drone draws attention, and, as it may not be familiar to all of us, I will reproduce its salient features:—

'Whereas the improvement of knowledge, the progress of civilisation, the public weal of the community, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences; as the principal encouragement such persons can have, to make great and beneficial exertions of this nature, must exist in the legal security of the fruits of their study and industry to themselves; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own than that which is produced by the labour of his mind: therefore,' &c., 'be it enacted,' &c.

On this certainly remarkable preamble I should like to make one or two observations. Firstly, I cannot but read the expression 'arts and sciences' as a sufficiently wide one to cover the field not only of copyright, but also of patents and

[1] Drone on 'Copyright,' p. 87.

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trade marks; and I shall perhaps recur to this view later in the present paper in order to point out the bearing which it appears to me to have upon existing difficulties, of which I think it may help towards affording a possible solution.

Secondly, I would remark that the thesis of the concluding sentence is absolutely identical with the view which I have heard expressed in substantially identical language at the various Congresses on Literary and Artistic Copyright which I have attended in Antwerp, Paris, London, and only the other day in Brussels, and where it was used by persons whom I cannot suppose to have had any acquaintance with the Massachusetts statute of 1783.

Thirdly, I would note—and this point also is not without its bearing on the question under discussion—that the Massachusetts statute, being State legislation, was, like its predecessor of Connecticut, strictly territorial in its operation. Both statutes, indeed, contained a proviso that their benefits should not apply to the citizens of any other State which had not passed a similar law (Drone, *op. cit.*, p. 81). And in both cases, the subjects of the statutory benefits were citizens of the United States alone.

Soon after the passing of the Massachusetts law, a resolution was brought forward in Congress by Mr. Madison, on May 2, 1783, which I think deserving of special attention at the present moment. I therefore extract the pith of it from Mr. Drone's work (*op. cit*, p. 83)—'Resolved.—That it be recommended to the several States to secure to the authors or publishers of any new books not hitherto printed, being citizens of the United States, and to their executors, administrators, and assigns, the copyright of such books for a certain time, not less than fourteen years from the first publication.' On the expiration of this first term of fourteen years, the resolution of Congress recommended that the right be given to renew it for a second term of fourteen years, thus making twenty-eight in all. The copyright so recommended to be granted was, in view of the sovereignty of the several States of the Union, 'to be secured by such laws and such restrictions as to the several States may seem proper.' In the terms of this 'recommendation,' Virginia and New York passed copyright laws, in 1785 and 1786 respectively, and other States did the same. It was not till 1787 that power was given to Congress to deal with the subject by Federal legislation. It was then laid down in Art. I., sect. 8, cl. 8, of the Constitution of the United States, that 'the Congress shall have power . . . to promote the progress of science and the useful

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arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.'

This article seems to read plainly enough, and to mean, if it has any meaning at all, that Congress is to have power to protect authors and inventors by securing their copyrights and their trade marks. It is, I think I am right in saying, the dominant article of the Federal Constitution, under which such powers have been claimed by and for Congress, though I must note a secondary claim which I observe has been made in regard to trade marks, to support trade-mark legislation by the clause empowering Congress 'to regulate commerce with foreign nations.' To outward appearance, I believe I am justified in maintaining, the case seems a very simple one. Here is a clause in the Constitution empowering the Legislature to 'protect authors and inventors.' On the faith of the apparent meaning of this clause, and perhaps also on the faith of the clause embracing the regulation of commerce, treaties are entered into with foreign nations, foreigners register their trade marks at the Federal Commissioner's Office in Washington, the sums received in fees for such registration are very large and increasing, and all is going on most prosperously when an unexpected blow falls. The Supreme Court of the United States, delivering judgment on a group of cases purposely brought forward together on a certificate of division from the courts below, decides that the trade-mark legislation of the United States is unconstitutional. Such a decision, even if looked for, could not have failed to produce some surprise and much distress. But coming as it did upon those most directly concerned, with a force all the more crushing from its unexpectedness, the alarm felt for the future of commercial relations with the United States was proportionately intense. This alarm may have been, as M. Clunet and some other writers on the question incline to believe it was, excessive; but I cannot say that I think it was unnatural, under all the circumstances which I have detailed.

I am not sure whether it is not, after all, one of the most unsatisfactory features of the whole case that the Supreme Court should have left expressly untouched the question as to the possible inherent power of Congress to legislate on trade marks. That 'broad question,' as it is very justly called in Mr. W. H. Browne's article in the 'American Law Review' (February 1880), is still, we have to admit, 'in legal limbo.' But that broad question is surely, *ex hypothesi*, capable of being raised any day; and what, we should like to know, is the solution likely to be given to it by the Supreme Court of

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the United States? I can scarcely suppose that the existing Bench of that tribunal would give an answer on the general question materially different from that which they have given on the particular question of the constitutionality of the Trade Marks Registration Act (U.S.) 1870, and the complementary Penal Act of 1876. The deadlock at the present moment seems to me to create in itself quite a sufficient difficulty for American constitutional lawyers, and I have no desire to urge the raising of the further question if our present doubts can be resolved without it.

Mr. W. H. Browne says, in the article which I have already cited, 'To judge from much that has appeared in print, the reason for the conclusion (of the Supreme Court) is not understood in its full scope.' I fear that after all my efforts to apprehend the *ratio decidendi* in these cases, I must still range myself among those who do not understand the judgment in its full scope. But I will lay before you Mr. Browne's explanation, and leave it to you to say whether you find it thoroughly satisfactory. What the learned justice (Mr. Justice Miller) who delivered the opinion of the Court said, explains Mr. Browne, was virtually this: 'If Congress has the constitutional power contended for (that point not being before the Court), it has not exercised it in a proper manner; and if the registration can only be valid as a regulation of commerce, it must be limited to foreign and inter-state commerce, and that with the Indian tribes; and if not so limited, it is in excess of the power of Congress.' To us, perhaps, with our favourite thesis of the 'omnipotence of Parliament,' this application of the doctrine of *ultra vires* to the Congress of the United States may sound a strange commentary on the constitution of a democratic republic. But I think it is, partly at least, explained by the very fact of the Union, which connotes the other fact, to which I have already drawn your attention, of the independent existence of each State of the Union as a sovereign body. And to this indisputable feature of the body politic, known to us diplomatically as the United States, Mr. Browne evidently alludes when he says, 'the whole tenor of the opinion (of the Supreme Court) clearly intimates that the primary Act, upon which the Act of 1876 hinged, was void for want of apt words to guard against trenching on the reserved rights of the States.' It is, in fact, the old question of State rights *versus* Federal rights, brought to the front once more under a new and, happily, peaceful aspect. We know that conflicts of law between Cantonal and Federal legislation occur sometimes in the Helvetic Confederation. Such conflicts are

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probably an unavoidable consequence of the Federal form of Government. It is not, therefore, a matter for legitimate surprise that they should occur in the United States of America. But it is a matter for legitimate pleasure that they should be raised in the sober arena of the law courts, where, at worst, it may well be hoped, they can but be provocative of legislative activity in Congress. It would, of course, be very disastrous if anything like a feeling of distrust were generated between the Judicature and the Legislature. And this is one of the principal reasons why I think the question here raised is, from an international point of view, a specially suitable one for our discussion. For we are, on the one hand, directly interested in the speedy solution of the problem, provided that solution be, as I do not doubt it will be, an equitable one. On the other hand, we are free from all bias on internal questions of State and Federal rights; and we are not, in this country, bound by the decisions of the United States Courts. There is yet another reason why it may reasonably be held desirable to raise this question in the present meeting. It must be well known to all who have taken an interest in the question of international copyright, that public opinion on the subject has been rapidly growing in the United States, and a very large proportion, perhaps a decided majority, of American publishers are anxious to promote the drafting of an International Convention with Great Britain. In this question, which has more than once been discussed by our Association since the publication of the Report by the Royal Commission, I have taken a strong personal interest. I have watched with great satisfaction the steady growth of public opinion in the United States, as well as on the Continent of Europe. And I have, therefore, been the more desirous of having this opportunity of saying that I cannot but fear that this growing harmony of feeling is endangered by the recent decision of the United States Supreme Court; for I am unable to see how an International Copyright Convention with the United States can possibly stand, if an International Trade-mark Convention falls to the ground as unconstitutional. It may be that some of our members here present can point out a means for avoiding this rock. If so, I shall most gladly receive the information, for my object is to remove difficulties, not to create them. Otherwise, I very much fear that at present we should split upon the rock of the decision in 'United States *v.* Steffens, Witteman, and Johnson.'

I am glad, indeed, to be able to mention that Mr. W. H. Browne suggests one mode of getting over the difficulty,

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which may possibly be adopted with good results in the case immediately before us. Having, in the passage which I recently cited from his article, expressed his view that the whole tenor of Mr. Justice Miller's opinion intimated want of provision for State rights as the crucial defect of the legislation of Congress in 1870 and 1876, Mr. Browne goes on to say, 'the inevitable converse of this proposition is, that by the use of proper phraseology, a Trade-mark Protection Bill may be so framed as to ripen into a constitutional Act.'

I am far from wishing to deny that this can be done, and, in point of fact, if it affords the best, or even only the readiest, means of bridging over the present difficulty, I hope it will be resorted to without delay. Yet it is clearly a solution which must take time. Bills are not redrawn in a day, especially where the language employed will have to be so very carefully scrutinised. And, meanwhile, it does seem to me that a check is necessarily imposed upon any advance towards an International Copyright Convention. For what would be the use of urging the propriety of such a convention, and carrying it through Congress, if the Supreme Court were to decide on the first case which might come before it to the same effect as in the cases under the Trade-marks Acts?

Mr. Browne tells us that the 'patent theory' was the rock on which the trade-mark legislation was shattered. This means, I presume, that the Court looked upon trade-mark and patent legislation as identical in principle. But I almost think, if I have here rightly apprehended the learned writer's meaning, that this explanation is *perobscurus*. For it is certainly laid down by Dr. Cooley, in his valuable manual of American Constitutional Law, to which I have already referred, that 'the power to legislate on the subject of patents is plenary, and may be exercised in the passage of either general or special laws.'[1] To say that a particular power of the Legislature is 'plenary' seems, *primâ facie*, to exclude any limitation of such power. Nevertheless, the clause immediately following, in Dr. Cooley's text, does contain a limitation; and here perhaps it is that the difficulty lies. 'But such laws,' continues the American text-writer, 'have no extra-territorial effect whatever.' Does this mean simply to enunciate the doctrine that municipal law, or, as I should perhaps prefer to call it, territorial law, is purely territorial in its force, and that any force given to it extra-territorially is due only to comity? Or does it mean to lay down the doctrine that Congress has not power to authorise International Conventions

[1] Cooley, *op. cit.* p. 85.

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on this particular subject? The former case seems to me difficult to suppose, though I am, of course, aware that different opinions are held by various schools of Continental jurists on the subject of foreign judgments, which involves the question of the extra-territorial force, which may, under certain circumstances, be given to territorial law. I have no intention of raising such a question under cover of my present subject, and I therefore pass on to consider the latter case. Can it be that in a matter expressly laid down as part of the 'power plenary' of Congress, Congress is debarred from passing any International Conventions? It may be so, and that may be Dr. Cooley's meaning. But I must confess that I do not understand the position, and that I await absolute certainty on the point before I can accept this explanation as the true solution of what still appears to me a difficulty in American Constitutional Law. That the existing wording of the Constitution of the United States, on the whole question of International Conventions for the promotion of trade and commerce, is deemed by many Americans to be unsatisfactory is proved by the fact that an amendment of the Constitution was proposed in Congress[1] in December 1879, only about two months after the Supreme Court decision. Unfortunately, perhaps, no amendment seems as yet to have been accepted, and the question remains one—I must say, I hope one of the foremost—to be grappled with by a new President and a new Congress. And if an amendment to the Constitution be really required—a point which is conceded by some, and denied by others—it should be, I contend, one dealing with the whole question, and placing beyond the possibility of doubt or cavil 'the power of Congress to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors the exclusive right to their respective writings and discoveries'; and, further, in the words of an amended form of Mr. Armfield's Bill, suggested by Mr. W. H. Browne, 'in the interest of manufactures and commerce, and to carry into effect obligations of reciprocity with foreign nations, to protect trade marks and analogous symbols of commerce.'

At the present moment there can be no question that the

[1] Joint Resolution, 125, introduced December 9, read twice, and referred to the Committee on Manufactures. This resolution, however, was opposed by Mr. Armfield, of North Carolina, who said that in the opinion of eminent lawyers no amendment was required; and, further, that he had introduced a Bill (House of Representatives, 2,573) that covered the subject. Both Resolution and Bill were therefore referred to the Judicial Committee. For these facts, as well as for the leading features of Mr. Armfield's Bill, and the suggested improvements mentioned above, I am indebted to Mr. Browne's article.

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Government of the United States is, through no apparent fault of its own, *not* carrying into effect the 'obligations of reciprocity' which it had undertaken with a foreign nation—viz., France. And under the circumstances of the case, in the face of the decision of the Supreme Court, it seems evident that the United States could not carry into effect any such obligations with any other foreign nation. The position is a difficult one; it might seem unique were it not for M. Clunet's views as to the constitutional invalidity of certain French treaties. But the sooner the hard facts are faced the better it will be for all parties. For it can scarcely be supposed that the French Government will long acquiesce in the existing ambiguous and eminently unsatisfactory state of things, and it is very unlikely that French manufacturers and traders will go on paying fees at Washington for a registration declared to be of no constitutional or diplomatic value. Nor can it be supposed that any State will seek to enter into 'obligations of reciprocity' which the other contracting party may, at any moment, be enjoined by its judicature not to carry into effect. Supposing an International Copyright Convention to be ratified between this country and the United States, and supposing the Supreme Court of the United States to declare such convention unconstitutional, the position of the British author and publisher in America would, I submit, be far worse than at the present time. For payments, in practical recognition of the moral claim to copyright are frequently, and I believe increasingly, made by American publishers to British authors. But I should greatly fear the effect of such a check as I have suggested in the matter of copyright, because the question has been longer agitated, more keenly debated, and with less favourable results, than the question of Trade-marks. We ourselves, I think, cannot meet the difficulty which exists. But we can throw out suggestions which may possibly be of use to our kin beyond sea. Whether they fall back upon the wording of the Massachusetts Statute of 1783, or adopt Mr. Armfield's Bill of 1879, or the amendment of the Constitution proposed in 1879, as improved by the practical experience of Mr. W. H. Browne in the article which I have so frequently cited, it will still be for the Americans themselves to solve the problem which their own courts have raised.

I have endeavoured to bring the whole subject before our Association simply as a question of facts. I have not sought to write as an alarmist or a pessimist, but I could not write as an optimist. I think there is a danger arising to the future of International Copyright with the United States through the

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recent decision on Trade-marks. And I have ventured to ask your attention to this subject, more particularly because I think we have paid less heed to it than our neighbours, whom it more immediately affected. If I shall have succeeded in conveying to you a useful warning, and if to be forewarned is to be forearmed, I shall not have written in vain.

Mr. R. A. MACFIE contributed a Paper on 'Literary Copyright: how to practically deal with it.' There has been, he said, some change of opinion about what is due to authors. At one time, although authors were held in high repute, they were not recognised in legislation. The very word *copyright* is of recent introduction. Under whatever name, and to whatever extent, the thing existed in old times, its principal object was, not to warrant *authors* to produce books, but *printers* to *manufacture them.* Copyright, under another name, was granted as a favour, which it is still; for there is no moral or common law right acknowledged in any country to demand an exclusive privilege to print or import or vend a literary composition; and the length of term was regulated according to circumstances, and determined, not by a general rule, but in each particular case. Since the days of Queen Anne, in whose reign the first Copyright Statute was enacted, the length of term has been from time to time elongated, and the same uniform duration has been assigned for all books, whatever the labour and cost of writing and printing them. In consequence of this, or as a cause of this, a hazy idea has arisen that *copyright* is a natural *right*, which to deny would be unjust or unkind. Argument and action on the bench and in the highest seats of statesmanship and legislation have been tolerably sound. But from want of discussion, prepossessions unduly favourable to authors, and therefore hurtful to the public, have taken a strong hold of the public mind. The true *principle* has been kept out of view. Instead of our regarding copyright as in its nature like things tangible, which cannot be the subject of public undefined ownership without public disadvantage—a *property* which therefore the State is bound to protect (if it were property of that nature, the term would not be 42 years, but for ever and aye)—the literary element in a book ought to be regarded as *work done*, or *workmanship produced*, for the community, which the community accepts, and so should *pay for*. The advantage of establishing this principle—which is a just and sensible one—is obvious. It implies that the *value* of the service done or the production acquired will be *estimated*. It is of the very nature of service that it can be, and is, remunerated according

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to some scale—of a thing purchased, that a *price* be understood. Nobody will think authors would be compensated otherwise than liberally if it is done on the basis of the *time* taken to prepare a book, or the *expense* incurred in producing it, or even the *value* of the production, or a combination of the three. There is, however, great difficulty in estimating, especially on the third of these bases. In regard to *it* the extent of *sale* might be taken into *account.* I prefer to proceed upon the first or the second basis. Surely if, besides his publisher being repaid for outlays, and allowed a margin for profit, an author were remunerated for his *time* on the same scale as a general in the army, or a judge on the bench, or a minister of State, he should be content; the nation would not feel that it is wronging him. What I suggest as a practical measure is that every book might be entered at Stationers' Hall, and in virtue of this entering secure a reasonably long period of exclusive privilege, but one which might be curtailed at the end of two or else three years, if any publisher should then demand that an inquiry be made as to the amount of sale or profit; and if it should thereupon be proved that the returns already received have been adequate, provided such publisher undertakes to publish either a better edition at the same price, or as good an edition at a lower price, and engages at the same time to pay a royalty or premium of, say, 5 per cent. on the retail price, to the author, or, if the author has so arranged it, to the publisher of the preceding edition or editions. I presume that the demand would not very often be made, but knowledge that it can be made would in general cause a reduction of price, if not from the first, at any rate after a couple of years, and would probably bring us much lower prices than now prevail from the very first. In either case the general run of books would be cheaper, and their sale would be multiplied. As to most authors, their pecuniary earnings might neither be more nor less than at present; but in so far as sale and circulation are augmented will they be gratified, for more people will enjoy or be influenced by their labour and teachings. There will be some difficulty as to the *value* to be put on the author's *time,* and as to the *quantity* of time with which he may be credited; but this matter might be adjudicated by a tribunal not unfriendly, whose awards would no doubt lean to the side of liberality in any case. Besides stopping extreme cases of over-remuneration—that is, of undue *exaction*—the public conscience would feel satisfied, because a reasonable principle is in operation, one working kindly towards authors, and yet not harshly towards the people. At present books are scandalously dear, just because circulation is de-

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plorably small. To say nothing of public institutions, few middle-class houses have good private libraries. New standard books the masses of the population seldom see, and almost never possess. How great is this loss! Into what low tastes and evil haunts and habits does it conduct and force not a few!

Hitherto the United States have, by reprinting British books, supplied themselves with literature cheap. They are a much more book-buying people than the British and Irish. A movement is making there to introduce a system of copyright that may render them dear. In order to facilitate this, negotiations and propositions are making, in which, as a poor mess of pottage to sell a birthright for, there is a condition by the American book manufacturers (that I think is the name some of them go by) to establish that the printing and binding should be done in the United States. It is worth noticing this incidentally, because it shows how shrewdly and assiduously our Transatlantic cousins look after industrial interests, affording, I am sorry to say, a lesson very much wanted among us. We are too proud and conceited to look after such interests. I do not think that the negotiations will be successful; they might be probably, if such a system as I have indicated were established in our own country; if so, the establishing it as a prelude should be sedulously sought for by British authors. But we ought not to be satisfied with any settlement of international questions affecting literature that will not lead to a large export business. The Copyright Commission—notwithstanding that it comprehended in its number a man of so advanced views on this question as Sir Louis Mallet, and received evidence so satisfactory as that of Sir Charles Trevelyan, of the enlightened and public-spirited Mr. Farrer (representing the Board of Trade), and of the experienced Mr. Bosworth—has given no recommendation, so far as I know, favourable to the public. The book trade will continue stunted books will continue dear and scarce; and highly important public interests will be compromised if the recommendations of the Committee become law. An influential member of this Association has given notice of a Bill for the amendment of the law of copyright. Let us hope it will be framed on more enlightened principles; that it will not stereotype an unworthy monopoly system; that it will provide some method for restraining oppressive charges for books—such control once there was, though little exercised; that it will liberate the Customs from the altogether exceptional and demeaning, or even preposterous, employment they are now made to engage in, of watching against the importation of books as if it were

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smuggling, and this not in the interest of the public—which, on the contrary, would be favoured by importation—but for the unique purpose of protecting the *monopoly* of an alone so favoured trade. If the objects of the Customs espionage were normal, *i.e.* to prevent the importation of foreign manufactures as injurious to British trade, it might have some basis of reason to justify or account for it. Those who were employed at the expense of the State would be working for the benefit of the State, and not, as now, to enable a particular interest, by means of a stinted supply, to procure monopoly prices, to the material and moral injury of all. There can be no justification of monopoly but the public advantage. I dislike monopolies of inventions, because they appear nowadays to hinder, on the whole, rather than carry out their proposed purpose—to promote trade. But these have the justification that they are supposed, by the State, to favour the establishing and improving of industries. Not so the book-monopoly. To avoid the force of this objection the plea of *property* has been advanced. It will not stand theoretical examination, however—for the property is already the author's by common law—the property in the *copy or manuscript.* What is sought, and has been obtained, is a forty-two years' power to use the *compulsitors* of law to prevent the exercise by members of the community of their natural right to reproduce, or imitate, or profit by what is published, *i.e.* made the public's. To remunerate authorship and publications by monopolies, with the object of enabling parties to sell books dear, is an anomaly which only long familiarity rescues from discredit.

To a vicious system people have become so habituated, and love of money has so successfully vindicated its ascendancy, that our philanthropists, nay, divines, who write books for the reformation of society and the promotion of sacred truth, sell copyright, and thereby, for the sake of a hundred pounds or two, limit sales, to the injury of the causes they advocate, and (may I say it?) to what is very likely adversely *weighting*, and so *retarding*, the progress of the Gospel. Will you believe it?—the copyright even of the Revised Version of the Bible has been disposed of, and this without any condition that the two English University 'presses' shall not misuse this their new monopoly!

In conclusion, what the interest of mankind wants is competition, that literature be emancipated. Would that her nineteenth-century votaries might cast off their golden enchainments, and taste and exemplify the luxury enjoyed by their predecessors, of working as they do under nobler circumstances, con-

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fiding that a grateful and appreciating generation will, with higher and worthier gratifications, fairly render them the lesser, the pecuniary one. I subjoin a scheme which I laid before the Copyright Commission. If any publisher fears the system of stamping and controlling the number of copies, which it suggests, will not work, and that he would be defrauded by unprincipled rivals, will he allow me to express myself satisfied that his fear may be dismissed. The past failure to reckon well with authors in the Dominion of Canada is chargeable against the system or want of system there. It is made nobody's business to attend to. The State indeed professes to collect, as if it were a commercial establishment, the driblets which an awkward piece of legislation assigns—a work which the parties to be benefited, the publishers, alone can do effectually, by a process and appliances easily devised.

A scheme for Amending the form of Copyright, submitted to the Royal Commission.[1]

1. The period of exclusive privilege to continue as at present, unless any republisher demand that it shall be shortened, which he may do any time after the end of the first year, or after the first edition is out of print, provided he intimates to the author, or assignee of the author, or their agent, at the Stationers' Hall, or other place duly appointed, that he intends to publish an edition at a lower price within a year, and also lodges there a specimen copy and a statement of the intended price. A publisher who wishes the period of exclusive privilege to last till the first edition is out of print, shall lay before an officer, to be appointed, a statement in the form of an approximate estimate of the expense of making ready for sale (in which statement may be included a reasonable sum for authorship, and editing, and trade profits), along with an intimation of the intended retail price; and upon the said officer certifying that he is satisfied of the general accuracy of the statement, and of the fairness of the price intimated, it shall become unlawful to publish another edition without consent of the author, until either the first edition is exhausted, or else the wholesale price of the copies that remain unsold is paid to the publisher by the intending re-publisher.

2. On such new edition the intending republisher shall be liable to pay in advance (five per cent.) on the retail price of the book.

3. And there shall be impressed on the first sheet of each copy a distinctive stamp approved by the Stationers' Hall, without which it shall be a penal offence to print or vend any copy. The author may demand that the printer to be employed shall (1st) be of unblemished repute for integrity in his dealings; and (2nd) shall give security for the faithful fulfilment of his obligation to print the stipulated number

[1] Extract from *Copyright and Patents*, vol. i. Edinburgh: T. & T. Clark. 1879.

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of copies and no more; and (3rd) if required, shall pay the wage of a competent supervisor of the operation of printing and stamping.

4. Every publisher making such an intimation shall be bound to actually publish, according to his notice, unless the author or his assignee, within six months of his receiving intimation, shall lodge at the Stationers' Hall a bond obliging himself to publish on his own account an edition at least as good in quality at a price no higher; such bond to bar any action under the provisions of Article 1.

5. No reprint to differ from the original edition, without the author's consent, either in the way of abbreviation, enlargement, or alteration, of the text. The republisher shall make any corrections and alterations, and insert any preface and notes of reasonable length, which the author may wish.

6. If a book is out of print for a whole year, the copyright privilege to lapse.

7. By special arrangements a longer period of exclusive privilege shall be allowed for encyclopædias, works *de luxe*, etc. Books printed only for private circulation shall always, and, by special arrangement, books largely composed of engravings and photographs may, be exempted from liability to competition.

8. Government to endeavour to negotiate international copyright treaties on the principle exhibited in the foregoing, with the United States and other foreign countries, in order to (*first*) the increase of the area of remuneration to authors, and (*second*) the removal of all unnecessary obstruction to the exchange of literary productions.

9. On the completion of the above treaty or treaties, all examination and stopping of books by the Custom-house and Post-office to cease.

10. Government to endeavour to persuade foreign Governments to exempt printed matter from duty, or else to charge duty at a moderate rate by weight, and not *ad valorem*.

The British colonies to enter into the copyright '*Verein*' which would be so constituted, but without any import or export duty, except in so far as proximity to the United States may render modification in Canada desirable.

In the event of such international arrangements being negotiated, the author or assignee of any copyright work to have an agent in the capital of each of the united countries, who shall be empowered to receive and give notices, intimations, and bonds provided for in Articles 1 and 4.

I am satisfied that the system of royalties could be carried out without difficulty. Each author would have a special stamp—call it, if you will, trade-mark—the use of which, required as a condition of circulation, he would authorise under such superintendence as he may think fit. No copy should be legally saleable without the stamp, just as in France no pamphlet can be sold without the Government stamp.

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DISCUSSION.

Mr. W. D. THORBURN, Advocate (Edinburgh), while admitting the practical importance of several points raised in Mr. Macfie's paper, disagreed as to some of the premises advanced, more particularly with the proposition that an author had not a right of property in his work apart from the copyright statutes. Common Law Courts, it was true, found they were not in a position to enforce that right; but still there could be no doubt that any man who had occupied his time and applied his mind to the production of literature had a right of property in it; he had certainly a right to keep his work in an unpublished form, and. if he published it, he was equally entitled to remuneration. At Common Law there was great difficulty in protecting this right at present; and the question for consideration was how to protect it in the best way. Mr. Macfie seemed to be of opinion that the only interest an author had was to receive remuneration on publishing his book. That, however, was not the only consideration. After publication of his work the author generally expected to be paid for his labours; but, in the course of a few years, he might find that the book contained sentiments which his maturer judgment did not approve, and, accordingly, he would not desire its further circulation. Why should an author be obliged to receive a royalty on republication? It was hard that an author's reputation should be at the mercy of an enterprising publisher, who might want to give publicity to a book which the author would rather consign to the waste basket than allow his reputation to suffer. The present system undoubtedly led to a very high price for books, and Mr. Macfie's remarks ought to make both authors and publishers consider the question most carefully. They might consider whether royalty would not be, in a large proportion of cases, of great advantage to them. His own impression was that it would be so. Certainly there were practical difficulties in the way of carrying out such a system, but they would probably vanish if the whole subject were properly considered.

Mr. H. N. MOZLEY (Hon. Secretary of the Department) considered the judgment of the Supreme Court complained of by Mr. Carmichael to be perfectly intelligible and justifiable. Congress was a body with limited powers, and the question for the Court was, Was the Trade Marks Protection Act within those powers? Congress had power to pass laws 'to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.' Was a trade mark a 'writing' or a 'discovery'? Was its owner (as such) an 'author' or an 'inventor'? To answer these questions in the affirmative would be an abuse of language. But it was further provided by the constitution of the United States that the Congress should have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. It might then be asked, Had not Congress power to pass a Trade Mark Protection Act? The Court did not hold that it had not; that point was left undecided; but the Act which Congress had passed would, if

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declared to be valid, be a regulation of traffic between citizens of the same State, which was beyond the power of Congress. As this, therefore, would be unconstitutional—and it was impossible to separate the constitutional from the unconstitutional part of the Act—the whole must be declared unconstitutional.

The CHAIRMAN (the Lord Advocate) did not think that this decision with regard to trade marks need cause any apprehension in this country as to the subjects of copyright and patents, which had only a superficial and an unreal resemblance to trade marks. The powers of Congress, as defined by the Constitution, clearly entitled them to legislate in such a manner as to secure benefits or rewards to authors and inventors for their works; and, under their powers, the Congress could authorise the American Government to enter into conventions with foreign States for further security of the rights of their citizens in matters of 'trade and commerce,' a category within which patent and copyright law would clearly fall. With regard to trade marks, he ventured, with great respect to the many decisions affirming their usefulness, to doubt whether the law should take cognisance of them at all. One could see a great deal of force in the reasoning by which the patent and copyright laws were supported, although many men, who had studied the question and whose opinions were entitled to weight, thought it would be better for the country if those laws were done away with altogether. But he saw no public reason for rewarding a man who, although he had not exercised any inventive talent or authorship whatever, claimed a monopoly of the right to advertise his goods by the use of some striking device or an odd combination of words. The only trade mark which the law could legitimately recognise was the name and post-office address of the maker of the goods, as the only legitimate object of a trade mark was to indicate to any person into whose hands they fell that the goods were the manufacture of a particular firm, and entitled to the value which the reputation of that firm might give. What better way of indicating that fact to the public could be devised than by putting the name and address of the maker upon the goods? If any other manufacturer used that name and address it would be a fraud and a lie, for which the injured party would be justly entitled to redress. But to secure a monopoly of the use of words, such as 'nourishing stout'—which had been the subject of a great case in the Court of Chancery—amounted to a *reductio ad absurdum*. On the whole, the interests of trade, commerce, and invention had not suffered by the decisions which had been the subject of Mr. Carmichael's paper.

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BILLS OF EXCHANGE.

Is it Practicable and Expedient to Assimilate the Laws of different Countries relating to Bills of Exchange? By W. D. THORBURN, M.A., Advocate.

THE position occupied by bills of exchange is at once so exceptional and so important, that while the proposal to assimilate the laws of different countries relating to bills of exchange necessarily wins for itself approval, the difficulties and dangers of altering and modifying existing laws, undoubtedly greater than in any other department of mercantile law, suggest doubts both as to the expediency and the practicability of assimilation. If the question be considered with reference to international commerce, the disadvantages and inconvenience arising from the existence of different rules are so manifest, that no one can dispute the expediency of a common code being adopted. A bill drawn in Paris upon London may be indorsed in every country of Europe before it is presented for payment. Bankers and merchants may be obliged hurriedly to decide whether they will take bills drawn or accepted in countries with the laws of which they are imperfectly acquainted. The credit of the parties whose names are on the bill may be undoubted, and all the formalities required by the law of the place where it is tendered may have been complied with, and yet some technical rule of the place of acceptance may vitiate the bill. A bill which has been indorsed several times in different countries may be in the hands of an onerous indorsee, and yet may be unavailable to him, because through a faulty indorsation the bill has not been duly transferred to a prior indorsee. The merchant or banker to whom the bill is indorsed may be unaware of the requirements of all the countries in which the bill has been indorsed, and he may only have the alternative of taking time to ascertain these requirements, or of discounting the bill with an unknown risk attaching to it. In the case, again, of bills drawn by a merchant upon his foreign debtor, according to the laws of most countries the want of a formality required at the place of acceptance cannot be advanced against the bill if it is in order according to the law of the drawer's residence. But if the merchant receive the bill back with an insufficient acceptance, according to the law of the drawee's residence, or if he draw the bill in his debtor's office, and use one of the forms upon which he is in the habit of drawing bills at home, he may find that he has received a document, the defect in which per-

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haps will not enable his debtor to maintain a good defence to his demand, but may prejudice his claim in a sequestration, or the want of the privileges of a bill may unexpectedly cripple his resources. Although not so important as a reason for assimilation, the difficulty which may be found in enforcing the obligations where the acceptor or drawer is sued in a country where none of the parties resided at the date of drawing or accepting the bill deserves consideration. The foreign court will, it is true, decide according to the law which would have been applied in the defender's former residence, but it may have difficulty in ascertaining what that law is, and delay will certainly be caused. The foreign court, too, may be prevented from enforcing a just claim by a rule as to the limitation of the time within which action may be brought on a bill. None of the parties at the date of the acceptance of the bill may have contemplated a termination of their respective liabilities before the period fixed by the laws of the country where they then were, and yet a change of residence may supply the defender with an unfair defence. The magnitude of the international transactions in which bills are used, and the rapidity with which these transactions are concluded, are sufficient arguments for the expediency of assimilation, while the occurrence from time to time of litigations, in which advantage is taken, or attempted to be taken, of the peculiarities of the laws of different countries, shows its desirability.

The proposal, however, looked at from a national point of view is beset with some difficulties, and open to some objections which have little or no force when the question is considered solely with reference to the interests of international commerce and finance. Bills of exchange owe their privileges, as well as the peculiarities of their forms, to the custom of merchants and bankers. Sometimes the mercantile practice has been adopted by the courts of law, sometimes a statute has been required to give it legal force. In the former case the greater or less importance of trade has had some effect in modifying or developing the practice which, for all European countries, has its origin in Italy, but which may now be treated as the independent growth of each country. The result was that a wide diversity of practice arose, part of which still remains; but the tendency during the present century has been to put an end to the local usages which were formerly to be found in great number in all the countries of Europe. Where the Legislature has sanctioned the practice, differences are naturally to be found corresponding to the more or less stringent and technical requirements of other branches of the law

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at the date when the legislative sanction was given. In each country the usages sanctioned by long practice or by statute have become thoroughly known, not merely to the mercantile classes, but to all who desire to borrow money. The introduction of changes into the existing law would be apt (especially if the changes were in the direction of additional strictness) to cause hardship, and even to open the door to fraud. The habit of compliance with numerous and minute requirements, is not easily acquired where a looser practice has prevailed, and till it has been acquired the carelessness or forgetfulness of drawers or acceptors may easily result in loss. If bills of exchange circulated only within the limits of each country, or if their use in foreign trade were insignificant, change in the rules prevailing in any particular country would be to be deprecated. Modifications and improvements might from time to time be introduced with advantage, but a sudden change of one set of rules for another would not at first be productive of any good result, and would certainly cause great inconvenience. It is, then, only by a comparison of the importance of the home and foreign trade that the expediency of assimilation of the laws of different countries can be determined. In the case of Great Britain there can be no doubt that the interests of the foreign trade, and the position which London occupies in international finance, render assimilation highly desirable.

The inconvenience, too, which would at first result from assimilation may easily be exaggerated. The differences between the laws of European States relating to bills of exchange are not differences of principle, but of the mode in which the principle is carried out. Everywhere the essential characteristics of a bill are the same, though in some cases local custom, or a stricter system of law, has added certain formal requirements, which are not known to the original simplicity of a bill. It is in the variety of these technical requirements and the varying degree of strictness with which they are enforced that the argument for the expediency of assimilation lies, while its practicability mainly depends on its being shown that the differences are differences of detail and not of principle. A short review of the differences to be found in the laws of the principal European States will establish these two points.

It may be premised that the laws prevailing in the different commercial States may be divided roughly into four groups: 1. The Law of England, in close connection with which is that of the English Colonies and also the laws in force in the United States of America. 2. The Law of Germany, which was drawn up in 1847 by a Conference of German jurists at Leipzig, and

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has since 1849 superseded the sixty different ordinances relating to bills formerly in force in different parts of Germany, and which has been adopted in Austria and several of the Swiss Cantons as law, and closely followed in Sweden and Finland. 3. The Code Napoléon, which, with various modifications, has been adopted or followed by Holland, Belgium, Italy, Greece, Turkey, Spain, and Portugal, and their colonies. 4. Russia, as well as some of the smaller States, have codified their own older laws and customs.

To take, first, the general requisites of a bill. A bill must be an unconditional order to pay a fixed sum of money to a particular person at a particular date. It must be signed by the drawer, but need not be written by him. To these simple conditions the laws of several countries make certain additions. Thus, by the law of Germany, a bill of exchange must expressly bear that it is a bill of exchange, and ambiguous expressions—such as 'draft'—are apparently not considered to be compliance with this technical rule. The Code Napoléon again demands that in addition a bill must state the value given for it, and the use of the general expression, to be found in most English bills, 'value received,' is not considered sufficient. This requirement of the Code has, however, not been followed by all the countries which have in other points adopted it. It ought also to be observed that the failure to comply with these requirements, neither in Germany nor in France, destroys the document, but merely deprives it of the privileges of a bill, and reduces it to the rank of an unprivileged order, or acknowledgment of debt. In most European countries bills require to be stamped, but the penalty attached to its want varies from the imposition of a fine to the invalidation of the bill. Differences, too, exist as to the treatment of bills to which unusual clauses have been added. In England and Scotland clauses of interest receive effect, while in Germany they are held *pro non scripto*, and in Austria invalidate the bill. The name of the payee is generally prescribed as an essential; but in some few countries bills may be drawn in blank, or made payable to bearer. This difference is one of those which it would be difficult to deal with in the case of assimilation. It would be a great innovation either to permit or to forbid the leaving the name of the payee blank. To forbid it would be inconvenient in countries where it had been allowed, while its permission would be regarded as likely to lead to the too easy circulation of documents of debts in countries where more strict rules had prevailed.

In regard to the mode of acceptance, those countries which

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have adopted the Code Napoléon, with the exception of Belgium, demand that words of acceptance shall precede the subscription of the drawee. On the other hand, Germany, and those countries which have adopted the German Bill of Exchange Law, agree with English practice in regarding the signature of the acceptor as sufficient. By the general custom of merchants, indorsements are made by the indorser writing his name on the back of the bill; but in France it is imperative that indorsations be dated, and bear the value for which they are made, as in the case of the bill itself; and in Italy the indorsee must be named. The privileges of bills are practically the same everywhere, with the notable exception that in some countries bills of exchange are not negotiable when not made payable to order, an exception which seems scarcely consonant to the character of a bill.

The difference which exists as to the giving of notice in the event of non-acceptance or non-payment must sometimes lead to loss. The English rule requires notice to be given by the holder to all parties against whom he wishes to preserve recourse. In Germany, on the other hand, it is sufficient that he give notice to the indorser from whom he received it, who in turn gives notice to the prior indorser. If any indorsee fails to give notice, the prior indorser or drawer remains liable to the last indorsee, but has a right of relief against the indorsee who failed to transmit the notice. It is undoubtedly inconvenient that so great a difference should exist as regards this point of practice, as well as regards the time within which the notice must be given, which by English law is merely a reasonable time, but by the laws of other countries is limited to a few hours. The variety of the period within which action on a bill must be brought is also the cause of inconvenience. The period varies from two, three, four, five, six, to ten years in the case of the acceptor, while by the law of Germany action must be brought against the drawer and indorsers within from three to eighteen months, according to circumstances. In other countries similar short periods are also limited. Days of grace have now been abolished in most, but not all, commercial countries.

The points of difference, of which the foregoing are the principal, are numerous, but only two of them seem to be difficult of adjustment. The requirement of the name of the payee in bills and in indorsations, and the requirement of words of acceptance, cannot easily be either enforced where they are not now required, or dispensed with in countries which have grown familiar with them. The other differences are all dif-

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ferences of detail, which could without difficulty be reduced to uniformity. The objections to the practicability of assimilation really resolve themselves into the question of how the greater strictness, which would be the necessary result of assimilation in this country, is to be introduced without leading to cases of hardship. The answer probably is, that while the strictness of the rules in force in some foreign countries must be relaxed, and the number of essential requisites of a bill be limited as much as possible, the failure to comply with the new rules should limit the remedies without impairing the rights of parties.

In the event of an attempt being made to assimilate the laws of the different countries of Europe, several points must, it is thought, be kept in view. In the first place, English and Scotch lawyers must not enter upon such a scheme without anticipating that the rules now prevailing here are not to be greatly modified, and that many things not now required will be declared to be among the essentials of a bill. In the second place, the assimilation ought at least at first to be confined within the strict limits of the rules relating to the form and privileges of bills, to the mode in which recourse is preserved, and the limitation of time within which action must be brought. There are many questions relating to bills which are so intimately connected with the whole system of law prevailing in particular countries, that agreement is scarcely to be obtained. The capacity to draw or accept a bill, the circumstances in which security may be demanded, the necessity for a stamp, and the rules of procedure under which action must be taken, ought to be left to the existing laws. To prevent, however, these and similar questions working injustice, it will be important that a general international rule should prevail as to the law which is to be applied by foreign courts. In the third place, the question will require to be considered how far it will be necessary to limit the assimilation of the laws to foreign bills and inland commercial bills, leaving the bills of the non-mercantile classes to be dealt with under the existing laws. In this country the distinction would probably be unnecessary, but in many foreign countries it would be found to remove an obstacle to assimilation if the limitation were made. Fourthly, the German law, as the one which has been most recently elaborated, and also as being less stringent in its requirements than other codes, might be taken as the basis upon which a general code might be constructed by the co-operation of representatives of different systems of law. Lastly, the adoption of the code so prepared could not be made matter of international

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treaty, but must be left for the adoption of each country, so that complete freedom of amendment and alteration might be preserved. If so carried out the benefit to international commerce would be great, and few countries could fail to find that, even as regards the internal trade, the putting of bills upon an improved basis was an advantage.

DISCUSSION.

Mr. J. Kirkpatrick, Advocate (Edinburgh), while expressing a general concurrence with Mr. Thorburn's views, as embodied in the Paper, took some exception to the opinion that it would be impossible for any code framed by an international commission to be adopted by treaty. There would be an end of the proposed reform if once the permissive principle were introduced—a result which the Lord Advocate in his address had forcibly pointed out. He agreed with Mr. Thorburn that such a scheme as that suggested would be feasible, and that being so, he knew of no reason to prevent those nations who were agreed on the subject from combining by international treaty to use such a code. Mr. Thorburn seemed to fear that the binding nature of a treaty would stand in the way of subsequent reform and amendment of the law; but, for his part, he did not think that would necessarily be the case, for it might be easily stipulated in the treaty itself that the code should be re-edited and amended from year to year under the direction of an international commission, for which purpose, so far as Great Britain was concerned, the International Law Institute, of which Professor Lorimer and Mr. Westlake were eminent members, might be brought into requisition with great advantage to the public. Such a commission would have no serious difficulty in amending the law and bringing it down to date by improving it from year to year. There was one fact mentioned in the Paper that deserved notice, in connection with the law of Germany, as being a difficulty in the way of assimilation. It was a peculiarity of that law that it contained a stipulation requiring that a bill should be called a 'bill' in the document itself, and if there was no mention made of it in the document it was not admitted to the privileges of a bill. In connection with the proposed code it would be advisable and quite feasible for the nations adopting it to form themselves into a sort of Bill of Exchange League, somewhat resembling the Postal Union, so that all debtors and creditors belonging to these nations might know exactly what remedies were open to them. With regard to the assimilation of the periods of prescription, the proposed scheme appeared to be quite practicable. It was a hardship that the law of different countries should present such a disparity in that respect. In one country, for example, the period was two years only, and in certain cases so short as three months, while in others ten years were allowed. On the whole the Paper might well be cordially recommended to the consideration of the Law Section of the Association as a valuable and suggestive contribution on the subject.

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Mr. W. Westgarth (London) said it was certainly desirable that, as far as possible, civilised and intertrading nations should enjoy the convenience of like rights and privileges connected with those most important things in common, bills of exchange. This question of assimilation ought to be considered first in reference to money, for the unifying of money of the different countries would greatly facilitate calculations and business in general, whereas at present the difference between the money of one nation and that of another, or rather of every nation from every other, was one of the chief things which kept them all asunder. To some extent the same argument applied to bills of exchange. Bills were necessities of modern commerce, very largely used, and they had certain privileges which made them distinct from other instruments. A bill of exchange had a special character, in that value had passed for the document. Therefore, they could not be too particular in distinguishing a bill, since it was a special document for which good faith in value had always passed. This point and others, as for instance in relation to the dates of endorsement, as mentioned by Mr. Thorburn, were all connected with the preservation of the purity and legitimacy of the true bill of exchange; and any law which would assimilate the forms, rules, and practice of the different countries of Europe, and of every other civilised nation, would be so much gain to the commercial world.

Mr. J. Campbell Smith, Advocate (Edinburgh), expressed himself as rather more hopeless than even Mr. Thorburn himself as to the possibility of getting any international system of law on this subject, though they had got pretty near to an international system upon what might be called the validity of the contract, of which the bill was evidence. So far as he understood Mr. Thorburn's views, there were certain little points of deviation, mere matters of detail, which deprived the document of the privileges of a bill of exchange, but did not annul it as a 'writing' or a document of debt. The only cases bearing on the question, which had arisen in Scotland, when a document in form of a bill had been treated as a total nullity, had been cases where it wanted a stamp, or at least the proper stamp. But even these did not deprive the creditor of the advantage of using it on a reference to the apparent obligant's oath, and so converting it into a perfectly good basis for the recovery of the sum named in it. The real difficulties touched not so much the essentials of the contract as the remedy, *i.e.*, the question how far the courts of law of different countries would apply their own specific rules and forms of process in order to give effect to the contract set forth in the document. For instance, in the case of Don and Lipmann, the question of prescription arose, whether a bill drawn upon Sir Alexander Don, after the war in France, and when he was a French prisoner, about the year 1809, was subject to the Scotch prescription of six years, or to the French prescription of twenty years. Reversing the prevalent opinion of the Scotch judges, Lord Brougham held that it was the Scotch prescription which applied, that being part of the law of remedy for the person who claimed under the bill, and that it fell to be governed by the law of the courts appealed to. For his own part he did not see how an

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international code could touch a question of prescription on a matter like that. It was very singular that such a diversity should exist in the laws of Europe with regard to the question of prescription, and that was one of the subjects upon which the Scotch system was more atrociously unphilosophical than any other. Then the law was rather absurd and was unsettled. The prescription of the bill itself was six years, but then if there was a letter acknowledging the debt after that, it became difficult to ascertain whether the period was six years or twenty or forty. The prevailing opinion of lawyers that it was for the period of forty years was an absurd view, the result being that the debt had given to it a new lease of life by means of a scrap of writing, which would make it at least six times better than it was under the original bill. Then came the question of adoption. Whatever might be the state of the law in other countries with regard to forged bills of exchange, there could be no doubt that it was in an obscure and unsatisfactory condition in Scotland. He could understand a man whose name had been forged to a bill doing something importing the bill to be genuine so clearly as to involve him in a liability from which he could not escape. But the Scotch cases, or some of them, were destitute of clear definable elements of homologation, and in the last case of adoption the decision seemed to turn upon the circumstance that the man whose name was forged, after giving the offender a 'blowing-up' for using his name, went to a public-house and treated him to a glass of whisky. The piece of indiscriminating Highland friendliness shown to the forger the court seemed to think was equivalent to a sort of permission, or 'mandate,' to forge his name as often as he liked. The law of England was, in that respect, much more reasonable and less dangerous to mere good-nature than the law of Scotland. Such were some of the questions affecting 'the remedy,' and he did not see how an international system could touch them. There would always be courts of law showing a preference for their own system of procedure and of evidence. Another peculiarity of the Scotch system was that if a bill were granted without value the only way in which it could be set aside was by referring the question to the oath of the person who had obtained the bill, or who held it. But, according to his own experience as a lawyer, that was a mode of proof which generally failed, as the man, when asked the question, usually swore that he had given value; he was not likely to come into court unless resolved to do that. That was another matter which an international system could not very well touch, although he would, for his part, greatly prefer the English system of requiring the proof of value to the Scotch system of presuming it. Beyond shaking the torch of truth, which Mr. Thorburn had done, he for one did not see what step could be taken towards helping forward the solution of this question, which, he owned, was a question of great importance to the mercantile community at home and on the Continent.

Mr. H. N. Mozley (Hon. Secretary of the Department) considered that a code relating to bills of exchange might be prepared and sanctioned by a convention, to which the different States might be at liberty to adhere and withdraw from at their pleasure. In the first instance,

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there should be a committee of jurists to draw up rules for the regulation of debts and liabilities on bills of exchange, and expressing those rules in as few words as possible.

The CHAIRMAN (Mr. J. Barker Duncan, Edinburgh), as one of the local secretaries, briefly summed up the discussion in the temporary absence of the Lord Advocate. Mr. Thorburn had shown, in his Paper, the practicability and expediency of assimilating bills of exchange in the different countries. The writer set out with a comparison of the convenience to international trade and finance with the inconvenience to international trade and finance if great changes were introduced; he had shown in the case of Great Britain the importance it was to trade, and the extent to which the international finance centres in London rendered it desirable that the assimilation should be accomplished. Then followed a short glance at the laws and bills of England, Germany, France, and Russia; the principal differences of the laws there were pointed out, the difficulties attending their complete assimilation were dealt with, and suggestions offered for carrying the assimilation into effect if possible. With regard to the permissive element, the Lord Advocate, in his speech, had referred more particularly to the special law of England, whereas this was an international question, and it was a point for consideration whether the permissive principle might not be more acceptable in this case than in the special one mentioned by the Lord Advocate. Mr. Westgarth had indicated the desirability of placing on an equal footing the rights and the privileges of bills and of money; and, as stated by Mr. Campbell Smith, it seemed to be agreed that it was most advisable the words on bills should be so precisely stated that, when written there, they should convey a clear meaning.

PROPERTY OF MARRIED WOMEN.[1]

Do the Laws relating to Property of Married Women in the United Kingdom require Amendment; and if so, in what particulars? By JOHN BOYD KINNEAR, Advocate and Barrister-at-Law.

THE discussion in Scotland of questions relating to husband and wife is necessarily complicated by the difference of the existing law in England and Scotland. Therefore, although I intend to confine myself chiefly to the consideration of the law of Scotland regarding the property of married women, it will be necessary both to explain (in a general way, avoiding technical minutiæ) in what respects it differs from English law,

[1] See *Transactions*, 1879, p. 205; 1877, p. 241; 1875, p. 265; 1870, pp. 92, 242; 1869, pp. 33, 199; 1868, pp. 36, 130, 238, 275; 1867, p. 292; 1861, p. 255. See also *Sessional Proceedings*, 1867–68, p. 189; *Law Amendment Journal* for March 26, 1857; *Report* of Personal Laws Committee of Law Amendment Society, 1856.

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and to point out in what respects public opinion demands further changes in England. I do not, indeed, profess to be one of those who consider that the law of the two countries ought to be assimilated for the mere sake of uniformity. On the contrary, I believe that its diversity often makes it only the better adapted to the habits, the ideas, and the progress of the two different peoples. It has the further advantage that it permits the trial of changes on a limited scale, and affords the guidance of the experience of the other to the theoretical reformer of each country. But in both nations the current of opinion has of late carried legislation in the same direction. It is admitted by an unquestionable majority in both countries that further changes are required. We may, therefore, most usefully consider what there is in each that may be beneficially transplanted to the other, and may fairly admit that assimilation, provided it can be effected with real advantage to each, is in itself a desirable object.

In the present stage of the discussion on the subject of the Property of Married Women two different questions must be considered. The first respects the rights of the parties during the subsistence of the marriage, the second respects the rights of the survivor after the death of either, and this last is connected with the further question of the rights of children. I propose to deal with these questions separately, not only for the sake of clearness, but because they have in point of fact no bearing upon each other.

It has, indeed, been asserted that the right of a wife in Scotland to some provision out of her husband's property after his death ought to be taken as an equivalent for the surrender to him of all right to her own property during his life. But the slightest reflection will satisfy us that the suggested equivalent is futile. It is a contingency dependent on the husband leaving property at all, and a husband who has spent his wife's is precisely the person who is least likely to leave any of his own to provide compensation to her as his widow. It may happen also that the wife dies first, in which case the equivalent for the loss of her property equally vanishes. Nor is it any consolation to a woman who loses her property without compensation to know that another woman may have the luck to be left a wealthy widow. Even from the husband's point of view there is no connection between the two rights. A husband who gets no fortune from his wife is bound, in Scotland, to make her a provision out of his own property of equal magnitude with that to which she is entitled if the whole funds were contributed by herself. The husband has, therefore, to make

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the alleged equivalent allowance, whether he gets any equivalent for it or not. Thus in every case the two questions are as separate in law as they are in fact, and mere confusion would be the consequence of any attempt to treat the one as involved in the solution of the other.

I. Commencing, then, with the rights of the parties during the subsistence of the marriage, it may be observed that there was originally little practical distinction between the Common Law of England and of Scotland. Both made the husband absolute master alike of the wife's personal estate and of the rents of her real estate. In England this was effected by the fiction of marriage operating as an assignment by the wife to her husband; in Scotland the result was brought about by the fiction that marriage constituted a community of goods, but with the condition that the husband should be sole and irresponsible manager of the joint estate. This fiction of a community of property led, as we shall see, to some distinct consequences in the matter of succession, but it had no effect in giving to the wife during the marriage the smallest control over even her own funds. The Scottish husband, in virtue of what lawyers called his *jus mariti* and his right of administration, might use, sell, or spend his wife's property as unrestrictedly as if he were her assignee, as in England.

But in both countries private feeling and public opinion have already considerably changed the law. Whenever a woman has property her own friends and advisers always insist that it shall, before marriage, be settled on herself and her children. The Court of Chancery in England has long established a similar rule in respect of all funds within its jurisdiction. Parliament in 1862 gave by 24 & 25 Victoria, c. 86, like power to the Court in Scotland. Next, a wife deserted by her husband was by statute in England, followed by another applying to Scotland, enabled to obtain an order securing her subsequently acquired property from seizure by him. In 1870 England, followed in 1878 by Scotland, gave to a wife an unlimited exclusive right to her own earnings. Thus far the law in the two countries has been equally modified. But the statute of 1870 gave to an English wife further rights which the Scottish wife has not yet attained. Besides what she makes by personal exertion she has now in England a sole and exclusive right to all money which she invests in her own name in the public funds and in some other specified securities, to all personal property to which she succeeds as next of kin, to all legacies under 200*l.*, and to the rents of all real estate which she succeeds to

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as heiress at law. All such property she may sell, spend, give, or will away, without her husband's consent; she may sue for it in her own name; nay, she may, if necessary, sue her husband for it. And here comes in one of the fruits of experience which I have said are so valuable to the law reformer. For while it was alleged by many persons, particularly law peers, that if a wife could sue her husband family peace would be at an end, it has been found in practice that wives do not generally sue their husbands; that the power is of itself a safeguard, and that family peace and comfort is in no case more disturbed by a wife's right to hold her property than it used to be by a husband's right to seize it: a conclusion which common sense had reached before, but which it is pleasant that experience should justify.

Having made changes so vital, it is quite impossible that legislation should stop here. A principle has been admitted which necessarily involves further changes to make it practically complete and beneficial. I do not hesitate to use the word necessarily, for no one who reviews the course of legislation can doubt that it is moved forward by an irresistible wave of steady public opinion. The alterations of the law I have referred to have not been the work of one enthusiastic minister or one revolutionary Parliament. They have been the gradual product of the convictions of many successive Parliaments, embodied in Bills brought in always by private members, always at first resisted by the Government of the day, no matter of what party; generally at first rejected and always mutilated by the House of Lords, but finally carried, because the House of Commons by increasing majorities showed that the country was determined upon them. As regards Scotland, the changes have followed those of England at intervals of a few years, a sufficient time to have discovered any mischiefs that might have been occasioned, but which, on the contrary, has only strengthened the motives that led Parliament to reaffirm and extend the principle.

Now, what is the principle thus established and reiterated? It is, in England, that a woman shall on marriage retain all the property she had before and all that she may acquire after, free from any control by her husband. For she has been given this right as regards her earnings, most of her investments, and all she succeeds to in land or personalty by operation of law. The sole surviving exceptions are certain unspecified investments, and such land or money, over 200*l.*, as she takes by will. It is clear there is no principle in such exceptions. They are arbitrary, incomprehensible, confusing,

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and useless. There is no wonder, therefore, that opinion in England has declared for their abolition. It is known that two-thirds of the members of the new House of Commons and nearly all the members of the Government will vote for their abolition, and next session will therefore see them finally removed from the statute book.

In Scotland the principle of legislation has not yet gone so far. But it has gone thus far, that the Court of Session may deprive a husband of any right of property his wife succeeds to, and that she has an absolute right to all that she makes by her own exertions, even though living with him. Now, having thus recognised her right to all for which she works, it is absurd to deny her equal right to what she gains without working. In the case of the energetic or skilful we have established the rule of separate property. We have renounced the doctrine that separate property means unfeminine independence, domestic jars, forensic disputes. Then since in the case of married women who are authors, artists, actresses, doctors, nurses, cooks, factory hands, or field labourers, we recognise that they may with propriety do what they like with their own, and may prevent their husbands from meddling with it, what possible plea remains for saying that they shall not be allowed to do what they like with money that comes to them as a legacy or as nearest of kin? It is puerile and paltry in men, having already conceded that common justice is on the side of women in regard to what they earn, to refuse the same concession as to what they inherit.

The absurdity is the greater, because there is probably not one individual listening to this Paper who, if his daughter or sister were about to marry, or if he intended to give or leave to her some money, would not take legal precautions that she should not be deprived of it by her husband. Nay, he would certainly go further than it is proposed the law should go, for he would stipulate that she should not even have power to give it to her husband. Very probably, indeed, he would give it to trustees to preserve for the lady's benefit. That is a course which the general law of the country cannot adopt, for it is obviously impracticable that every married woman should apply to a Court to nominate trustees for her property. Small properties would not bear the cost, large ones would demand an investigation for which judges cannot afford the time. But what the law can usefully and reasonably do is to put a married woman in as nearly as may be the position of independence and security which her own relatives would

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desire to secure for her. If she has been imprudent enough to marry without a settlement, the law can declare that she shall be at least in no worse a position than if a proper contract had been entered into. It can do this by reserving to her after marriage the power of still dealing with her own property in the same way as she might before marriage. Nor is any man who marries a woman possessed of means, without seeing them properly secured on herself, entitled to the smallest commiseration for the loss of his expected gain by the law doing that which he ought in justice and honour to have insisted should be done.

It need hardly be observed that in these suggestions it is proposed to deal only with rules of law which take effect in the absence of conditions, contracts, or settlements. It would remain as fully as now in the power of a testator to give property to a married or unmarried woman under such limitations of her powers as he thinks fit. It would be in the power of the parties before marriage to make any arrangements they think best suited to themselves. It would be in the power of either husband or wife to give to the other, independently of contract, such property or privileges as affection, or even imprudence, may dictate. The law as to the revocability of deeds might, indeed, properly remain intact, but that law does not and would not affect what one of the parties has given to the other, so long as the wish to give continues.

It may also be noticed that the alterations already made in the law in this direction have fully provided (as it is intended in any future extensions still further to provide) that a husband thus deprived of right to his wife's property shall be equally relieved from liability for her debts. Each of the parties will be entitled to act independently, but neither will be responsible for the acts of the other. On the same principle, a wife possessed of property will be as fully bound to support an indigent husband as a husband is now bound to support his wife.

The question remains, what should be the relative liabilities of the parties for the joint maintenance of the household? On this head I must confess that I differ in opinion from those who have had charge of the Bills in both England and Scotland. They have deemed that because the husband is the head of the family, and the bread-winner, he should be alone responsible for the support of the family. That is very sound doctrine when it is consistent with the facts. But if the husband is ill, or has been unfortunate, while the wife is able to make a fortune, I cannot see why he should maintain the

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family and she should not. If she has an income from any source, and he one from a different source, it may be less or greater, but in either case I cannot see why his income alone should bear, while hers is exempt, the charges of the joint establishment and of the children of which both are parents. The just course seems to me to be that each should contribute according to their respective means. But as creditors for household supplies cannot be required to apportion their accounts on this footing, I would allow them to sue either the husband or the wife, but concede to the party who pays a right to a rateable contribution (within reasonable limits of time) from the other. This rule would work with no greater difficulty than that which assigns to a wife pin-money or paraphernalia—that is to say, it would work itself by mutual arrangement.

II. Let us now proceed to consider the respective rights of a surviving husband or wife after the death of the other.

As regards real property the ancient law of England and Scotland was very similar. It still gives to the husband, if a child has been born, although it may have predeceased, a right to the wife's whole estate for his life; and it gave to the wife, whether a mother or not, a right to one-third of the rental of her deceased husband's estate. By statute in 1834 this last right was placed in the option of the husband in England, but it remains indefeasible in Scotland.

With regard to personal property, the husband is in England the wife's sole personal representative; and as she could not make a will without his consent his right was indefeasible. But the statute of 1870, as we have seen, places by far the larger portion of a wife's property in the position of being settled to her sole and separate use, and therefore she can now by will exclude her husband entirely from such property. On the husband's death intestate the wife takes a third or a half of his personalty, according as there are or are not children; but from this he may by will entirely exclude her.

In Scotland the rules are more complicated, owing to the old theory that the personal property of the two parties became on marriage a joint fund. If the marriage was dissolved within a year and a day, the survivor, and the representatives of the deceased, resumed their own. This continued to be the law till 1856. But, after the lapse of a year and a day, on the death of either the joint fund was divided into three or two parts, according as there were or were not children. Of these parts the deceased was allowed to dispose of one by will;

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one part went to the survivor, and one-third to the children, if any. But this rule of an equal division of the partnership fund, taking no account of the amounts respectively contributed, led to some obvious injustice. It was therefore altered by statute in 1856 so far as to relieve a husband from the injustice of losing his property by his wife's predecease. But, by a remarkable and quite exceptional oversight of the Legislature, the wife was not at the same time relieved of the injustice of losing her property on her husband's predecease. What is perhaps still more remarkable, the lawyers of Scotland, whom we know on their own authority to be as anxious to guard a woman's interests as their own, have been for the last quarter of a century so overpowered with work that they have not been able to frame an Act to remedy the oversight. Therefore, as the law now stands, a husband in Scotland has not only the spending of his wife's property during her life, but he keeps it all at her death for his own absolute use, subject only to the claim of his own children to a share at his death; while, on the husband's death, his surviving wife takes, as before, only a half or a third, even although she may have contributed the whole. The husband's children, even if by a former marriage, take one-third, his legatees or next-of-kin take another third (or a half, if there be no children), and the widow is left with only one-half or a third. It is true that this in some cases may have been entirely derived from her husband's estate, but it may quite as well happen that it is all that remains of her own, to which he had added nothing at all.

All this is anomalous and without principle. Instead, therefore, of further discussing rules which supply no intelligible guide for legislation, let us consider what common sense may suggest.

It seems, on the whole, reasonable, and consistent with the general feeling of mankind, that when one of two married persons dies the survivor should not be left without sufficient means of support. This is the motive of settlements on marriage. And while this provision should be independent of the caprice of the deceased, it should be equally unaffected by the accident of a child having been born or not. I cannot help thinking also that the old Roman rule, which is adopted in the Code Napoleon and in Scotland, giving to children an indefeasible right to a portion of their parents' property (observe, a portion only, not the whole), is sound and beneficial. But it seems clear that all these legal provisions should be equally exigible from real or from personal property, since if they are just as respects investments of money in stocks,

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they must be equally just as regards investments of money in land.

What I would propose, then, is, that if there are children one-third of the property of each parent should on his or her death be divided among them, subject to any condition which may be thought reasonable for limiting the total amount to each child.

But when we come to consider what provision should be made by law for the survivor of husband and wife, we must remember that it may very well happen that the survivor is the wealthier of the two. It is reasonable that the poorer, if surviving, should inherit something from the wealth of the deceased; but it is not reasonable that, if the survivor is the wealthier, he or she should take a portion from the scantier means of the deceased, which would otherwise go by will or descent. Now that we are proposing to secure to each the full enjoyment of their own separate estate, it is evident that we must take some account of its amount in regulating any claims of the one upon the other. But this can be done without difficulty.

The common consent of both countries has fixed the reasonable provision of a survivor at one-third or one-half. Let us take this amount as the basis of the new rule, and apply it in such a way as to make the income of the survivor equal to that proportion of what had been the joint income during the marriage. Under this system, if the separate estate belonging to the survivor exceeded one-half of the separate estate of the deceased, after deduction of the children's share, he or she would have no legal claim on the deceased's estate. But if the estate of the survivor was less than one-half of that of the deceased, he or she would be entitled to claim from the executors as much as would make it up to such half. Thus, if A and B are the two married persons, and A predeceases leaving 3,000*l.*, the children, if any, would take 1,000*l.* among them, and 2,000*l.* would remain. B would have no claim on this, if his or her own property exceeded 1,000*l.*; but if less than 1,000*l.*, he or she would be entitled to claim so much as would make it up to 1,000*l.* It will be found on examination that the rule would be very simple, and would work with no difficulty. In the great majority of cases it would be evidently just.

I have said that real estate ought to be taken into computation equally with personal. This would get rid of all anomalies connected with dower. The wife would have dower if she needed it, and if the personalty were insufficient; in other cases she would have no right. With regard to courtesy,

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it may be a matter of consideration whether a slight difference in the rule might be admitted. It may be argued with some force, that on the death of a wife it is more natural that her husband should take the property for his life, rather than that he should be ousted by her son. Yet cases may also occur (as where the son is by a first marriage) in which it is unfair that the son should be kept out by the husband. I do not think, therefore, that there should be an absolute right of courtesy over a wife's whole lands. The husband's absolute right should be limited (as the wife's is) to one-third of the joint married income. But the wife would, of course, have the power of giving him by will a further right. And if she dies intestate the husband might be allowed to continue in possession, so long as he is the father of the actual heir.

In offering these suggestions I have made them in general terms applicable equally to the law of England and Scotland. There seems no reason why the law should not be assimilated on such a basis. It is already in many points identical, and each successive change brings it closer in the two countries. Legislation as to Scotland has always followed close on the heels of that which takes place in England. At this moment there is in Scotland a general admission that a Bill must be passed extending to Scotland the rules of the English Act of 1870. But as we have seen that these rules contain the whole principle of the separation of the property of the two spouses, and of the complete independence of the wife's, and as it is absolutely certain that in a year or two every remaining exception to that principle will be removed, it would be more rational in Scotsmen to consider the future than to restrict themselves to the past. For the last three or four years the question has been by successive Bills brought under the consideration of the public, and of the various legal corporations. Every one of these bodies has admitted that changes must be made. Nearly all have urged that Government should deal with the whole question. The Faculty of Advocates has this year recommended the issuing of a commission 'to consider and report upon the law of Scotland in regard to married women in the United Kingdom, with a view to assimilation, or at all events to report upon the law of Scotland with a view to amendment.' But a commission is a feeble and useless expedient in regard to a question which for the last twenty years has been debated in every session of Parliament, and in regard to which legislation has already made vital changes. It is beyond doubt that Parliament will not listen to any suggestions for assimilation which involve abandonment of

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principles already established, and which in England will be unquestionably further carried out. It would be well if Scotsmen would look these facts in the face; and since we all agree that amendments are required, our wisest course would be to join with Englishmen in framing at once a measure which shall settle the question for both countries on a broad and rational basis.

DISCUSSION.

Mrs. WOLSTENHOLME ELMY (Congleton) said the writer of the Paper seemed to claim that the wife should be held equally liable with the husband for the household expenditure; but she thought that there were three points in which the law at present gave a very serious advantage to the husband, and before it would be just and equitable to claim from the wife an equal contribution to the household expenditure, these three points ought to be rectified. In the first place, the wife was the only servant who received no wages. In every department of life the wife had an immense amount of labour—in the upper classes, of superintendence, and in the lower classes, of actual manual work—which did not fall to the husband's share, and for which he did not contribute any equivalent in labour. In the next place, it was undoubtedly the legal right of the husband at present to regulate the household expenditure. In the third place, it ought never to be forgotten that according to English law—and she believed also according to the law of Scotland—the father was the sole legal custodian of the children. The wife had no right over her own child. The mother of an illegitimate child had to some extent the guardianship of the child, but a wife had no right of guardianship. While her husband was living she had no such right, and the husband might by his will make a stranger guardian of the children, removing the control of them absolutely from the mother. If the husband should die making no appointment of a guardian, the mother might be appointed guardian by the Court; but even then she had no power to provide for the children in the event of her own death by appointing another guardian to succeed her. Before the law compelled a wife to contribute equally with the husband to the household expenditure, these three things to which she had referred should be carefully considered and to some extent modified.

Mr. CHARLES MCLAREN, M.P., thought that the law on such a matter as the right to the guardianship of children ought to be altered, but on an independent basis, without any regard to the question of the separate property of husbands and wives. No doubt the tendency of modern legislation had been to reduce the chaotic state of the law to order on the principle of encouraging, as far as possible, a separate ownership of property between husband and wife; but he thought the Paper just read had some very valuable suggestions in a contrary direction. No doubt anything was better than the present state of the

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law of England on this question. It seemed to him that the relations of husband and wife were relations which ought to be joint; and that, as far as possible, those joint relations ought to be extended to the subject of property. He therefore welcomed with feelings of interest the remarks in the Paper which were directed towards this joint partnership doctrine. He could not help thinking that, so far from husbands and wives being permitted to enjoy their property in such absolute separation, there ought to be an indefeasible right of survivorship in each spouse in at least a certain portion of the joint estate. That was to his mind a point at which law amendment ought to aim: and he could not help feeling that this end could only be attained by giving the wife a more complete independence than she at present possessed. The paper just read did not go far into the question of the right of contract. That was a branch of English law which was at present not only confused, but he did not think he was going too far when he said that it was absolutely unintelligible. Under the old law the wife had no right to contract, but the inconvenience of that course had been so strongly felt that Parliament had interfered. The wife had now a limited right to contract, but where that right began and where it ended was really unknown to all practical lawyers. In the city of London the wife had the fullest right to contract, according to the decisions of the Courts; but on the other side of Temple Bar the wife had no right worth speaking of. She might have power to contract in the name of her husband, a very questionable right, and difficult to ascertain. Then, again, if a wrong was done to a married woman, she had no right to sue for compensation in her own name. It did seem a very curious state of things that our law made no provision for the wife's right of property in her own person as against third parties. He did not think that enough attention had been given to these two points. They heard a great deal about the right of succession, but not enough upon the wife's right to contract and the wife's right to receive compensation in respect of injuries.

Mr. W. Griffith (London) did not think that the separation of property was so much called for as some supposed. He thought that if they looked at the whole matter carefully, it would be found that the separation of property of husband and wife had a tendency to promote division; and everything which tended to cause disunion between husband and wife would not only be an injury to the parties themselves, but to the country at large. He admitted that in times past there had been great evils. It did seem hard that a lady of genius who produced works of literature or art should be prevented from enjoying the profits of her labour. It did seem hard that in the lower ranks of life a brutal husband should be at liberty to come home and make a wife give up the wages she had earned. These things were hard, but they were exceptional. The object of the Legislature ought not to be the separation of goods, but the settlement of the property on the family.

Mr. Hastings, M.P., said that he did not wish it to be understood that, as far as he was concerned, he based his advocacy of any change in the English law relating to the property of married women upon

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any cases of individual hardship. These might be useful in illustrating the defects of the law and in calling public attention to it; but they were not the thing for which Parliament ought to legislate. The real question was, on what broad principle, as affecting every one, whatever their individual circumstances might be, the law should proceed; and the reason why, ever since he had turned attention to the subject, he had advocated an entire change in the law with regard to the property of married women was because he thought the principle on which our present law went was wrong. The principle on which the law went was to make the act of marriage confiscate the property of a woman in favour of her husband. If it was desirable that the property of a married woman in any case should pass to her husband, she could give it to him, or it might be formally made over to him after marriage or before marriage, by settlement or otherwise; but that necessarily, and as the act of law, marriage being contracted, the property of the wife should become the property of the husband was radically wrong. It was not the original common law of England, though believed to be so. He spoke as to what was practically the case, not as to what was theoretically the case. When the common law—that is, the legal custom of the land—arose, the circumstances of society were very different from what they are at present. At that time land was almost the only property held by a woman, except her jewels. Now the law of England did not, and does not, confiscate the landed property of the wife. On the contrary, all that the husband ever attained was a life interest in the property. He, no doubt, had the management of the land. He represented her, as he was obliged to do—he fulfilled the feudal obligations under which the land was held; but he could not sell without the consent of the wife. In one way or other, whether by descending to her son, or by ultimately, in the absence of issue, reverting to her heirs, the land remained in the family of the wife. It was not the case, therefore, that the common law of England looked upon marriage as an act which ought to confiscate the property of the wife. On the contrary, with regard to the only property which the law took much cognisance of in those days, it carefully preserved the property of the wife upon marriage. He ventured to call attention to that fact, because it was important, as bearing upon the principle on which Parliament ought to proceed, and showing that it should go rather on the line of the real old common law of the country than on that of the state of things which had gradually sprung up. As time went on, personal property grew until it vastly exceeded the property in land, and no doubt ladies were now chiefly interested in personal property. The common law took no notice of that, and, as time went on, the injustice became apparent, and the Courts of Equity stepped in to remedy that injustice; and he really did not know how it was that those who were conversant with our Courts of Equity, and who believed that they had done entire justice between husband and wife, should hesitate in recommending and supporting this change of the law. Parliament was now only asked to do what judges in Courts of Equity had always done when applied to on behalf of the wife. He could not understand why they should tell a woman—as they now did

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practically—that the law would, on the one hand, confiscate her property when she married, but that she might have a remedy, if she could afford it, by going to a Court of Equity. He would say, 'Do justice from the beginning. Protect from the beginning the property of the woman, by simply providing that marriage shall not operate in any way to take out of the hands of a woman that which belongs to her; that if she makes a contract of matrimony, she will be as much the mistress of her own money as of her own land, and as she is now of her own earnings.' He believed that was the principle upon which the Legislature must proceed, and that the law would not be satisfactory until that principle had been embodied in an Act. He had no doubt that when the subject came to be fairly stated in the House of Commons by Mr. Hinde Palmer, the House would adopt that view, and resolve that the Government measure should put the law of property of married women upon a footing of expediency as well as justice, and provide that after a woman was married she should be as much mistress of her property as she was before.

Miss BECKER (Manchester) said she wished she could share the confidence expressed by Mr. Hastings of an amendment of the law on this subject taking place within the next session or two of Parliament. She was one of those who did not believe that it was possible to secure a satisfactory amendment of the law on the subject of the property of married women so long as those unmarried women who had not accepted the conditions of a matrimonial contract were deprived of any voice in settling those conditions. She believed that there were unmarried women hesitating to contract matrimony from an indisposition to submit themselves to the existing conditions of the contract; and that those who had accepted the contract had a sense of humiliation, and that the better the character of the husband the more likely he was to be ashamed of the conditions under which he joined the contract. One of the great obstacles which met them at every turn in the discussion of the question was the notion that the property of the wife was to be her separate property. She wanted to get rid of this idea altogether. Why should they have this idea of separate property on the part of the wife when nobody spoke of the property of the husband as his separate property? When a man entered into marriage his property was his own. He was owner of the property, but he was not supposed to keep his property for his separate use. At any rate theoretically he was not supposed to do so, though they did not know what might have been the case practically sometimes. The mere fact of ownership should not be held to imply any idea that the property was to be used separately; but a great deal of the notion that division in families would be caused by an equitable change in the law had arisen from importing these words 'separate use' into the question. The Act of 1870, though it relieved wives of a great injustice and grievance, did also a great deal of harm. They had heard of the investments that might be made under that Act. She believed they were practically *nil*, and that no investments worth speaking of had been made under that Act. Bankers objected to take the accounts of married women without the husband's written consent, and had hesi-

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tated and refused to honour their cheques if their husbands forbade them, while stockbrokers also objected to do business for married women. She was told that a married woman separated from her husband, and who wanted to invest money, could not do so, although she had no benefit from her married state and was judicially separated from her husband. There was another clause in the Act of Parliament allowing persons about to marry to agree that any specified property belonging to the wife before marriage should remain her separate property after marriage; but that clause had not been taken advantage of, and seemed to be a dead letter. With regard to making the wife liable for a proportion of the expenses of the household, before they could do that they would require to provide that some portion of the property of the household should be devoted to the household expenses. She need hardly point out the practical inconvenience of a law which pretended to determine what proportions of the income of husband and wife should be spent on their household. It would be a monstrous thing for the law to step in and make the wife's property liable for the expenses of the household, while the law gave the husband the sole control of their household expenditure. If husbands might be trusted to provide for themselves and their families according to their own means, wives also might be trusted to do so. Wives lived at home more than their husbands, and their own personal comfort depended upon the state of the household, and they might be safely trusted in the same degree as husbands were as to what proportion of their property they would spend upon their homes and families. She entirely and cordially assented to the proposition of Mr. Hastings, that they sought this alteration of the law not on the ground of treatment in exceptional cases, but as a general rule of right for all. Legislation ought to be so framed as to be just for all, and they should not attempt to palliate evils which a principle of the law had caused. The law as regarded landed property was no doubt what had been stated by Mr. Hastings; but was it a fact that this was known to be the law? She knew a case many years ago, in which a large landed estate was bequeathed by will to two sisters, who were married and had families—they were persons in quite humble life. The husbands immediately took possession of the estate, dealt with it as if it were absolutely their own, and they made wills leaving their wives a mere pittance, and they left the property away from the owners to their own children—in one case to the children of a subsequent marriage. It might have been discovered, if inquiry had been made, that all was illegal; but, as a matter of fact, it remained unchallenged, and to this day the property remained in the hands of those who had no legal right to it. It was thought that if this matter was fairly and freely stated to the House of Commons justice would be done. But what was the use of a fair statement to the House of Commons when that House would not stop to listen to that statement, as happened several times last session? It was most difficult to get honourable members together to take this subject into their consideration. Perhaps a little thought of the aggregate money value of the property referred to in this question might tend to show that it was a serious question. She believed it was a very low

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estimate to say that the Act of 1870 changed the ownership of money to the value of twenty millions sterling annually, and that the further proposal to allow married women to deal with their own property would deal with even a greater amount. If the wife was allowed to keep her property in marriage, the result would be that ultimately as much property would be in the hands of women as of men, and therefore marriage would be more truly a joint concern. With regard to survivorship, it had been said that it would be a hardship if the father of the actual heir should not be regarded as proprietor of an estate after the death of his wife. That was not a greater hardship than what happened every day, when the mother of the actual heir forfeited her enjoyment of the property on the death of her husband. It had been said that woman's sphere was her own house, but any woman who married the heir of a great landed estate knew that her tenure of her house was exceedingly precarious, and that if her husband died she would be deprived of her home. Men saw the hardship of giving up their houses to their sons, they might then understand that it must be hard for a woman to give up possession of her house to the daughter-in-law. It was not possible to frame any rule of law which would do absolute justice in all circumstances. A certain amount of discretion must be left in every case; but the amendment of the law should be so made that no parent should have power to leave his or her children unprovided for; and neither husband nor wife having property should have power to leave their survivor wholly unprovided for. With regard to the right of a married woman to contract and to claim damages for injuries, there was a case at Manchester which illustrated the defect of the law. A woman was hurt in a railway accident, and brought an action against the railway company, who pleaded in defence that the wife had no right to sue. The woman's husband had deserted her twenty-one years ago, and the man with whom she was living was not her husband; and because her husband, who had deserted her and whom she believed to be dead, was not claiming damages, she was non-suited, and had to apply to the Court for an order to enable her to sue as an unmarried woman before she could seek redress. She thought the discussion might lead to some modification of the views which appeared to prevail among the Faculty of Advocates in Scotland against the proposed amendment of the law. It was certain that some change would be made in the law on this subject before very long, and it would be a grievous misfortune if another confused Act should be passed instead of some complete, just, and equal law in regard to the property of women.

Mr. R. V. Campbell, Advocate (Edinburgh), said that he had a difficulty in speaking on this subject, and the manner in which the subject had been treated that day had increased his difficulty. The writer of the paper told them that there was a wave of public opinion rising upon this question which would sweep away everything before it, so that anybody opposing the proposed changes in the law must necessarily be supporting injustice and absurdity. If that was the state of public opinion, there was no use in discussing the matter any further. Mr. Hastings seemed to regard the present state of the law

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with regard to the property of married women as merely confiscation. [Mr. HASTINGS: Her personal property.] Well; this is a somewhat extravagant use of the word confiscation. It surely was not meant that the personal property went to the State or to any third party; and to whom, then, did it go, but to both the spouses for their joint advantage as married people? Both the husband and the wife had the benefit of the property after marriage; and usually it was for the greater good of any true wife that this should be so. So far as he could see, the last speaker contended that by the present law a wrong was committed entirely against women, and that any one who maintained the present law was maintaining something going palpably against justice. These were rather extreme notions to take up, and it occurred to him that they were rather sentimental notions; and he thought that those who treated the subject in that way rather forgot that there was no legal institution that ever existed that must not be tried by the balance of advantages. The law of contract, or any other law would work hardships in certain cases, and the most they could do was to strike an average of what was best on the whole. It seemed to him that the different propositions submitted by the speakers and the writer of the paper on the state of the law raised this question—'Whether will you have the relations of husband and wife with regard to property on the footing of mutual trust, or on the footing that there will be disagreement and perpetual suspicion between them?' Were parties entering upon the sacred institution of marriage to be regarded by the law as parties who were to be encouraged to look each upon the other as a possible enemy—as the cynical Frenchman said we should always treat our friends? Was that to be the tone of the law, or was the law to look upon the husband and wife as united in a *consortium omnis vitæ*? The whole discussion turned on the question whether the law was to be on the footing of union or disagreement. With everything that could be said as to the duty of protecting the wronged he heartily agreed. If there were brutes of husbands who beat their wives, or brutes of wives who spent their husbands' earnings on drink, let that be remedied if possible; but he did not think that, because of these exceptional cases, they should upset the whole principle of the institution of marriage. Husbands were by no means generally scoundrels; nor were all wives always angels. One thing occurred to him in connection with this subject, and that was that it was much forgotten that the present law of marriage was markedly in favour of women. It was all very well for the lady who last spoke to maintain that the wife's independent property should not be called 'separate' estate. He did not care for the word, but the result of any change of the law now proposed was that the wife was to be in an independent position after marriage, just as before it—independent as to her money. Marriage according to these new notions was to be a mere chumming together between two independent persons. As a necessary result of that, the question would arise, 'Is the wife to be entitled to a life-long contract? or are she and her husband only to be chums during pleasure?' Too much is made of the mere money-question in these discussions. It was said

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that in marriage there was a confiscation of money; but surely the confiscation of liberty involved for the benefit of women in the existing marriage law was an important question. They could not deal with the question of money separately in the way now proposed by feminine agitators. They would have, if this agitation went on, to deal with the wider question—whether the liberty of both parties to the contract was to be given up for life? Men might no longer consent to be bound for life if deprived by force of law of their present legal position in marriage; and that would be a distinct relapse in civilisation, prejudicial above all to women. In Scotland they had an entirely different law from that referred to by Mr. Hastings; and in Scotland he was not aware that there was any such tide of public opinion in favour of a change in the law as had been spoken of. Before such changes were introduced so suddenly upon one partial point of the law of marriage, it would be better if the history of this matter were looked at. Perhaps it might be found that the patrimonial relations of married persons were parts of a structure which could not be seriously changed without bringing down the whole institution. It was a well-known fact, that at one time in the history of Rome exactly the state of things now sought to be introduced as a modern novelty did exist. In the early empire, for a century or two, women had their property separate. Marriages became connections during pleasure, and it was only as Christianity advanced that the old pecuniary relations were restored and the life-long character of marriage was re-established. Since then it had been regarded by Goethe and every great thinker in Europe as a great conquest to civilisation and culture, that the life-long character of marriage had subsisted; but it occurred to him that this would be interfered with by this proposed law of the universally separate property of married women. As regarded England, it was merely a factitious feeling that had been got up on this question—he did not believe there was any such feeling generally; and what the people of Scotland would most wish with regard to themselves was that their law should be left alone. In Scotland they had taken advantage of the civilised jurisprudence of Rome in a way that had not been done in England. He laid great stress on the fact, that no man could marry and beget children except under the obligation that he must leave them and his widow legal and indefeasible provisions. He did not put forward the provisions in the Scotch law for the *terce* and *jus relictæ* of the wife as a compensation for the *jus mariti* of the husband and his right to take the wife's moveable property. Still, according to the law of Scotland, in all cases—and it must be remembered that in most marriages the husband did not get a penny by his wife—the husband out of his estate was bound, independently of his will, to support his widow and provide for his children. The Scotch law of marriage worked fairly enough for women. One lady said that the wife ought to have a separate estate and ought not to be bound to contribute to the maintenance of the household. That appeared to him not to be a very fair thing. He attached the greatest possible consequence to the legal provisions in the Scotch law of marriage to which he had just referred, and would like to see them extended to

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England and to all kinds of property real and personal. This would solve many of the difficulties not only of the marriage law, but of the present laws of entail and settlement. He did not, however, venture to say that he had adopted any final view on these questions, and he was not opposed to such legislation as might be required to remedy obvious defects in the present law. The provision of a statutory form of marriage contract to be offered for choice alternatively with marriage under the existing common law would put the matter to the test of experience. In such minor matters as the custody of children, the feelings of mothers were at present neglected and hardly dealt with by the law; but all these matters might be dealt with without disturbing the whole law; and they had the experience of Rome, and the obvious nature of the institution, to show them that one of the rashest things that could be done, in the interests of women, would be to introduce this compulsory separate property of married women, with or without subjection to the burden of contributing to the household expenses.

Mrs. Duncan McLaren (Edinburgh) said she rose under a feeling of indignation at hearing the expression of 'minor question' applied to such a matter as the right to the custody of children. She held that it was a tremendous question that a woman who had borne children might be subject to the cruel brutality and often very impure conduct of a husband, and yet that the law should say that she should not be entitled to the custody of her children. That might seem a minor question to some men, but to women it was a question of almost life or death—it was a question of the future well-being of the children; and any one who could speak of that as a minor question was not fit to speak on the question of the property or rights of married women. She did not think it was altogether a question of property which some men were trying to oppose—it was a question of power. They could not bear that the wife should have any power. She knew that women who had been in the habit of giving liberal subscriptions to benevolent objects had after their marriage been compelled to drop them, because their husbands refused to give them power to indulge in such benevolent and pleasurable feelings. She saw an amused expression on the faces of some men present; but this was not an amusing question. Women were no longer disposed to submit to a state of the law under which, after hearing in the marriage ceremony their husbands say, 'With all my worldly goods I thee endow,' they found when they left the church that they did not, in strict law, possess even the clothes or any other possession which belonged to them before the marriage ceremony was performed. The Faculty of Advocates in their report and the *Scotsman* newspaper were extremely indignant at the changes proposed by the Married Women's Property Bill, and made it appear that the wives and widows of Scotland were much better off than those of England. So they were in some particulars; but there was one thing to which she would wish to call attention. If when a man married in Scotland he happened to be in comparatively humble circumstances, and, in the desire to do justice to his wife, made a settlement of 100*l.* a year upon her, which might be very just and generous at the time, that marriage settlement would prevent her claiming a sixpence additional on the

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death of her husband, even though he should die a millionaire, if he left no will or did not in his will leave her an additional allowance. That was a thing to which attention ought to be called, for she had known cases of widows who had been thus left in very unfavourable circumstances, after living with their husbands in affluence and comfort, owing to the husbands having made no additional provision for them.

Mr. A. Jameson, Advocate (Edinburgh), said that the reason why the Faculty of Advocates in Scotland took up what has been called an obstructive position on this question was that the law of Scotland on this subject had, on the whole, worked well; and he thought that had been due to this, that from the very earliest times married women had had much greater privileges than in England. By the law of Scotland a married woman was entitled on the death of her husband to her *jus relictæ*—one-third of her husband's property if there were children, and one-half if there were no children. In a case such as that just referred to by Mrs. McLaren the wife would have had an excellent case for setting aside the marriage settlement and claiming a legal provision. But if parties did enter into settlements, they had to abide by them; and if people were so forgetful as not to make wills they must take the consequences. Then, by the law of Scotland the wife had the right of *terce* (one-third of the rents of her husband's landed property). That was a right which wives in Scotland had enjoyed from the earliest times. Then, by an Act passed some time ago—not in consequence of any agitation, but because legal bodies had called for it—a wife who was ill-treated by her husband could apply to the Court and get an order of protection, whereby she could protect anything which she acquired by her own industry or by succession. It was also provided that any married woman insufficiently provided for could insist on the husband setting aside, from any money or estate she might succeed to, a sum sufficient for her maintenance, before touching a farthing of it himself. These provisions were all in the direction of giving the wife greater benefits than she enjoyed under the ancient theory of *communio bonorum*; but they were all improvements on the marriage law of Scotland and of Christendom. The movement which now seemed to be made, however, was made in an entirely opposite direction, and it seemed to him likely to have the effect of successfully cutting away the foundations of marriage altogether. The keynote of that movement had been struck by two of the speakers that day. They had Mr. Hastings speaking of confiscation, and Mrs. Elmy saying that a wife was the only unpaid servant. Now he had heard of the young man who said to his father that he was no longer worthy to be his son and asked to be made one of his hired servants; but he would be extremely amazed if the cry were to come up from the wives of this country, 'Make us your hired servants.' But that was what Mrs. Elmy had said that day. In America these principles had been carried out to their legitimate conclusion. There things had gone so far that a wife had brought an action against the executors of her husband for payment of a sum for services rendered to him during his last illness and death. In one State the claim was sustained, and in another it

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was rejected. But he would ask, did such a state of matters as that not point altogether to the abolition of marriage, as hitherto existing in Christian countries? If they were not to marry a wife, but if they were to hire her, where was the respect, where was the love of the husband to find a place? How could these feelings be cherished mutually if husband and wife were to approach each other as enemies, each considering how they could best preserve their individual and separate rights? He thought he was entitled to say, from what he knew of the women of this part of the island, that there was not, among the best educated ladies of Scotland, a cry for legislation of the kind they had heard suggested that day. They wanted justice; they wanted their rights protected; they wanted—what he would desire to see—that the rights of all poor women should be protected, in much the same way as the rights of ladies in higher life were usually protected by marriage contract. Let rules of law be laid down, applicable to all cases, which would prove such a protection to women of the humbler classes as those of the higher classes were able to secure by marriage contract—which would not deprive the husband of the control of the household, but which would, in cases where the wife was subjected to ill-treatment from the husband, give her the rights to which in justice she was entitled. An amendment of the law on these lines he would approve of; and he thought there was great room for improvement in the law. He quite agreed with Mr. Boyd Kinnear that it was time that they should have a comprehensive measure giving them a similar law on the whole question in both parts of the island. But he would say, let that legislation proceed on the lines of making a contract for everybody such as parties now made for themselves—such a contract as would be considered fair, and would provide for future circumstances, and yet not trammel the parties in the present. But do not let them make a separate property for husband and wife. Do not let them have two partners, each to do as they liked with their own property. In the case of a contract of co-partnery the partners arranged to draw upon a joint fund, but in this proposed new social partnership each was only to deal with his or her own assets. It was a partnership such as he had never heard of either in the law of partnership or of marriage, and which he fervently hoped they would never see established. As to giving the right to a wife to recover damages for personal injuries of any kind, he was not opposed to some change in the law. As to the case quoted by Miss Becker of the wife who had a sort of Enoch Arden experience in having two husbands, that was certainly an exceptional case. He would give the Courts authority to let the wife sue by herself. In Scotland it was customary in certain cases for the Court to appoint a *curator ad litem*, who took charge of the suit for the wife. If the husband would not concur in raising a just suit, the wife might be empowered to apply to the Court to get a Curator appointed to take charge of the suit. But if wives were to be allowed to embark in any litigation they pleased, without consent of the husband, that would be a step in a wrong direction; and if ladies for tea-table slanders were to be at liberty to start actions for damages, for the expenses in which their husbands would be liable, it would be an exceedingly undesirable

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thing, which might give rise to a good deal of Court practice of a certain kind, but would have no other good result.

Dr. C. R. Drysdale (London) said that, as a medical man, it appeared to him that, under the present marriage law, cases of extreme injustice arose as to the custody of children. He could not see why marriage should not be a more equitable partnership, giving to the wife joint rights with the husband. There were many cases in which the custody of the children ought to be given to the mother, who was able to take better care of them, especially where the father was an exceedingly drunken or idle man. He was surprised to hear the state of the Romans before the Canonical Law talked of as being a bad one. He had no doubt that it would be an advantage to return to the old law of the Romans, where divorce was obtainable by the wife when maltreated, by merely returning to her paternal home.

Mr. R. A. Macfie (Dreghorn) deprecated rash legislation, and suggested that if the Lord Advocate would consult the Faculty of Advocates he might be able to bring forward some suitable proposals for the amendment of the law as far as was required for Scotland.

Mr. J. Campbell Smith, Advocate (Edinburgh), rather agreed with a great deal of what fell from Mr. Hastings on this question, and he might say that the more heartily that he never agreed with him about the marriage law before, because he had generally been a strong advocate of the marriage law of England and an assailant of the marriage law of Scotland. He (Mr. Smith) thought that the marriage law of Scotland in all its parts was one of which women had not much reason to complain. Some one had said that the law of England was the perfection of human wisdom. He thought that, as far as women were concerned, it might very well be called the perfection of masculine selfishness, because, though many concessions had been made, these concessions had mostly proceeded from a wise consideration on the part of the man that it was for his own interest to make the concessions. He did not think there was much cause for legislation for Scotland so far as the law of marriage was concerned, though he did not take the strong views which his friends had advocated. There should not be any rash legislation. The married women in England were not getting the advantage of the Act of 1870, and instead of making new laws it would be advantageous to hire some one to educate bankers and stockbrokers in the law of the land, if there were many cases of the kind referred to by Miss Becker. There was one change very much called for in the law of England, and it was this. In England a man might die worth a million of money and yet not leave his wife a penny; but that could not happen in Scotland, because if a married man died in Scotland his widow was entitled to a half of his personal property, if there were no children, and to a third if there were children. In one respect the recent change in the law had gone too far. It held that a husband was not liable for his wife's debts if he had not got money with her. Now he looked upon a wife as being of value apart from the money she might bring, and the husband ought to pay her debts although he may not have got much money with her. Suppose a wife had borrowed 100*l.* for some reasonable and useful purpose, it was not just

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that her husband should not be liable for that debt, because the wife was deprived by her marriage of making any separate estate out of which the creditor could recover payment of that money. One of the ladies seemed to throw discredit upon the idea that the wife should contribute to the expenses of the household. He quite admitted the difficulty of legislating on a matter of that kind, but the mere fact of there being a difficulty was no reason for not doing justice. He had known of cases where the husband had no property and the wife had almost everything, while both were of extravagant habits; and they travelled about contracting debts, for which decree was obtained, and the husband was put in prison till the wife thought fit to release him by payment of the debt. He thought that in that respect there ought to be some change in the law. They were quite drifting to this—to look upon marriage as a partnership, in which the rights of the parties should be equal; and if that were the case the liabilities, in so far as it was possible to ascertain them, should be equal. [Miss BECKER said that she did not say that the wife ought not to spend her money on the household, but she thought it unjust to lay upon the property of the wife the obligation to contribute a certain proportion. The law left the husband perfectly free to spend as much or as little upon the house as he pleased; and if that could be allowed to husbands, it could be to wives. In England the husband could not be made liable by the act of his wife for expenses of the household.]—Mr. J. C. SMITH said it was totally different in Scotland, for the wife could order both for herself and the household. There was no part of the law which stood so much in need of amendment as that which gave the custody of the children to the father and not to the mother. The mother should certainly have the custody of the children up to the ages of seven or eight years, as the person who, above all others, was best entitled to them.

The PRESIDENT (the Lord Advocate) said he would now close the discussion with a few words as to the best way of dealing with the subject in practical legislation. The speech of Mr. Hastings came nearest to his own view, although he did not desire it to be understood that he had formed very definite views on the subject. However, he thought that if they were going to legislate, it would be the better course and more conducive to ultimate success, to legislate upon some simple and clear principle, even though that principle might not carry them so far as they desired. He would be disposed to condemn the principle of the English Married Woman's Property Act, in so far as it singled out particular investments and said that the wife's money in savings banks and certain other societies was to be deemed her separate property, while her money invested in certain other ways should be held to be the husband's. He saw no sense in that. They must deal with movable property as a whole, giving the wife such rights and interests in it as might represent the opinion of the country at the time, and as were supposed to be conducive to the interests of the spouses. In the same way landed property and the rents derived from it he ventured to think ought to be dealt with in one broad and simple aspect, giving the wife such an interest in her landed estate as was consistent with the maintenance of domestic harmony and with the

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marriage relation. Mr. Hastings had said that in the present state of the law in England the wife's property was confiscated, and the word had been objected to as too strong. He understood the word had been used in the sense with which lawyers as well as others were familiar, that of being involuntarily deprived of one's property for the benefit of another. That was very much what was done in England in the case of a woman marrying without a settlement, and he agreed with Mr. Hastings that this was confiscation, because the property of the wife passed to the husband without her consent. They ought to deal with this question in a generous spirit, and provide that the wife's personal property, whenever it could be identified, should be held to be her own. If she paid her money into the bank account of her husband, or mixed it with his funds, he was afraid that the law could not help her, because the interests of creditors might interfere with her being able to claim it. With regard to landed property there was no difficulty, because land could always be identified; and under the English and Scotch law the *corpus* of the property was already protected from confiscation. That law with regard to the *corpus* had not been followed out with reference to the rents of the heritable estate, and he could not help thinking that the reason was, as suggested by Mr. Hastings, that, at the time the common law came into its present form, the personal property of women was so insignificant that no special provision was requisite. Then there was the difficult question of the husband's right of administration. He would not be disposed to favour an alteration of the law which should entirely destroy the right of guardianship of the wife's property, which the law vests in the husband, and which makes his consent necessary to actions and deeds, except in matters where the wife has an interest adverse to his own. The requirement of the husband's consent was in no way inconsistent with the concession of the fullest right of property to the wife, because the husband's consenting power was not a right by which he could gain an advantage, but rather a security to the wife against loss through indiscreet investments or alienations of her property. With regard to the wife's contracts, the law had already to some extent admitted the right of the wife to enter into separate contracts. If she was entitled by law to the benefit of her own earnings, was not this just a mode of saying that she was free to enter into a contract of employment, or to engage in business independently of her husband, and to receive from the other contracting party a consideration for her performance of the contract? In admitting the right, he thought they had admitted the whole question, though it might be necessary to guard against the possibility of the husband being made—as Mr. Jameson thought he might be—responsible for contracts or obligations into which his wife might enter without his consent. That he thought no one would desire, and as it was at all events possible, the law should be framed so as to prevent that possible result. He was sure that this subject had received some valuable illustrations from this discussion.

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REGISTRATION OF DEEDS AND TITLES.[1]

Is it expedient that there should be One System of Registration of Deeds or of Titles relating to Land for the United Kingdom on the basis of the System presently in operation in Scotland, or on any other? By Sir ROBERT R. TORRENS, K.C.M.G.

CONVEYANCING by deed without registration is in operation throughout the greater part of England. In two counties only we find a system of conveyancing by deed with registration, but without barring 'the doctrine of notice.' In the United States of America, in portions of the Dominion of Canada, in Ireland, and notably in Scotland, the principle of conveyancing by deed with registration, and barring 'notice' (whether actual or imputed), obtains, with more or less diversity in the method of its application.

Conveyancing by 'registration of title' has been in operation for over a century in Prussia, in Bavaria, and other European States, notably in Hamburg, where, during an experience of over 600 years, it has yielded advantages immeasurably superior to those of any other system. In England also, as applied to lands under 'copyhold tenure,' the same principle has been observed ever since the Norman period, though on a limited scale and encumbered with many obnoxious conditions of feudalism. For over twenty years the same system has been in operation in South Australia; and the results of experience there have been such as to induce its adoption in the other Australian colonies, as well as in New Zealand, British Columbia, and Fiji.

Contrasting these four systems, we find that Middlesex, one of the two counties above referred to, is generally—not to say universally—condemned as adding considerably to expense and delay, without any compensating advantage in the shape of security or otherwise. In short, it may be accepted as an axiom that any system of registration, not based upon the principle that registered instruments shall have priority amongst themselves, according to the date of registration, and over all unregistered instruments whatsoever, is worse than useless.

Regarding the relative advantages of conveyancing without registration and those of conveyancing with registration according to the Scotch method, there is much diversity of opinion. (See Report and evidence, Land Titles and Transfer

[1] See *Transactions*, 1878, p. 199; 1873, p. 205; 1872, p. 159.

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Committee, House of Commons, last year.) Against that method it is objected that it does not afford adequate safeguard against frauds such as have been recently practised by Dimsdale and others; whilst it affords facilities for frauds of another class which do not exist under conveyancing without registration, a matter to which I will by and by revert. Again, exception is taken to the publicity supposed to be unavoidable under any system of registration; and, thirdly, the opponents of that system dwell upon the costs and delays, especially those attendant on indexing and search, as counterbalancing any benefits attained thereby.

In reply to these objections it is justly argued that the absolute prevention of fraud is unattainable so long as knaves and dupes exist in the world, and all that can be expected from the best system is that fraud may thereby be rendered more difficult and its detection more probable. Secondly, it is a mistake to represent publicity as indispensable to registration. If the policy of secrecy be approved nothing would be easier than to limit the privilege of search to beneficiaries and their agents. But the opposite policy has been thoroughly tested, and has produced none but beneficial results, as applied to wills and estates and interests, under the various systems of registration. Thirdly, recent improvements in the method pursued in the Edinburgh Registry have materially diminished the delay and expense as regards index and search.

Upon the whole the superiority of the Scotch conveyancing over that in operation in England would seem to be established by the evidence taken before the Parliamentary Committee of last year.

It remains to consider its relative advantages when contrasted with those afforded by registration of title as in operation in the colonies; and, as I have a sort of paternal interest in the latter, I will avail myself rather of arguments furnished by others. Mr. Denny Urlin, a barrister who had long official experience in Ireland, giving evidence before the Select Committee, last year, on 'Land Titles and Transfer,' states the conclusions he had arrived at thus: 'I had considered the question [registration of titles as opposed to registration of deeds] for some years, and it appeared to me that there were weighty, in fact, insuperable, difficulties to a registry of deeds as distinguished from a registry of titles. The result of the former has been to increase the expense and delay incident to every dealing with land; to preserve as blots upon titles a very large number of deeds executed for temporary purposes, because a mortgage, or other deed, once coming on the register

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remains there for ever; it is never removed, even although the mortgage is paid off—the blot remains, and a satisfied or extinct transaction remains on the abstract of title for ever afterwards. The result has shown that the registration of titles is much more efficient and much less costly than the registration of deeds. The mode of registration is so simple, and so analogous to the system of book-keeping as used in banks, that all the transactions relating to a certain title necessarily appear upon the same folio, and therefore it is not necessary to search either against a man's name or in any other book whatever.'

Again, Mr. Freshfield, a member of one of the first conveyancing firms in England, in evidence before the Royal Commission of 1856, deposes that 'title by deed can never be demonstrated as an ascertained fact; it can only be presented as an inference more or less probable deducible from the documentary evidence accessible at the time being.'

The late Lord Chancellor, when Attorney-General, in 1859, in his speech on this question in the House of Commons, pronounced 'the objections to a register of deeds to be so manifest that hardly any person in the present day would venture to propose it. It would not simplify title in the least. It only puts on a formal record the whole of that multitude of deeds and conveyances of the extent and complexity of which we already have so much reason to complain. You have to investigate and search just as before; in addition to that you have to pay for searches in the register, and also to pay, in some shape or other, the expense of placing the deeds upon it. Moreover, the costs to the country of the establishment by which a registration of deeds could be managed would be something which, I should think, none of us would like to contemplate. I believe the calculation is that in this country you must have the materials for registering a thousand deeds every day. In the next place, a register of deeds would interfere with and render nugatory a very large portion of the dealings in land which run upon the deposit of deeds.'

Lord Cairns, in the same speech, thus described the evil results attendant on the English system of conveyancing, and for which he above declared that registration of deeds can afford no remedy: 'You buy an estate at an auction, or you enter into a contract for the purchase of the estate. You are very anxious to get possession of the property you have bought, and the vendor is very anxious to get his money. But do you get possession of the property? On the contrary, you cannot get the estate, nor can the vendor get his money, until after a lapse—sometimes no inconsiderable portion of a man's life-

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time—spent in the preparation of abstracts, in the comparison of deeds, in searches for encumbrances, in objections made to the title, in answers to those objections, in disputes which arise upon the answers, in endeavours to cure the defects—not only months but years frequently pass in a history of that kind; and I should say that it is an uncommon thing in this country for a purchase of any magnitude to be completed—completed by possession and payment of the price—in a period under, at all events, twelve months.

In the United States, rather than encounter these vexations, delays, complications, and costs, purchasers are usually content to accept the hazardous alternative of the personal guarantee of vendors.

Reverting to an objection raised some time back, that registration of deeds affords no safeguard against frauds such as those of Dimsdale and others, whilst it opened the door to frauds of another kind, I will now illustrate that by a few cases which have come under my own observation. Some time previous to the adoption of registration of title in South Australia, A deposited at the bank, by way of equitable mortgage, the deeds of his property, and subsequently executed a regular deed of mortgage of the same lands to B, accounting for the non-delivery of title-deeds by saying that he had left them at his station many miles up country. B registered the mortgage deed, and thus obtained priority. The bank lost the money. This could not have happened had registration of title been in operation, because the registrar could not register without production of A's certificate of title, which would be locked up in the banker's safe.

Another case:—A lodged 1,500*l.* with his solicitor to be invested on mortgage. The solicitor forged a mortgage deed of lands of B and registered it. For some years the interest was paid with exemplary punctuality. Ultimately, A and B happening to meet and becoming communicative, the fraud was discovered. The solicitor bolted. A lost his money. This could not have occurred had registration of title been in operation, because, instead of the fraud being concocted in the privacy of the solicitor's office, the mortgagor, mortgagee, and attesting witnesses would be required to attend at the public office of the registrar or other authorised functionary, and, producing B's certificate of title for the prescribed endorsement, sign and attest the certificate of mortgage.

Against these and other frauds, such as that practised by the notorious Downs, who succeeded in mortgaging the same property to fourteen different persons, each of whom believed

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it to be unencumbered, a further safeguard is provided under my duplicate system of conducting 'registration of titles;' for although it might be possible to forge a certificate of title, it would be quite impossible to get the forged duplicate bound up in the register-book, and consequently the intending mortgagee or purchaser applying for the customary 'certificate of search' (cost 2*s.* 6*d.*) before completing, would immediately learn the true state of the case.

Amongst the more damaging incidents arising out of the retrospective or derivative character of titles under the system presently in force in this country, I would mention the inevitable tendency to produce what are generally designated 'blistered titles'—that is, titles which in the opinion of the most punctilious conveyancers would be pronounced good holding titles, yet, owing to some technical defect, cannot be forced upon an unwilling purchaser, and may even interfere with the power to eject a tortious holder in possession. Such a condition of affairs cannot arise under 'registration of titles,' because the retrospect is cut off on the completion of each transaction, the title being in the register, and the sole and sufficient evidence of it, the 'certificate of title,' in the hands of the proprietor.

Again, the value of land as a basis of credit is seriously depreciated by the curiously factitious, we may say absurd, procedure in the case of mortgage; the object being to hypothecate or charge the land with a sum of money as security for a loan. Instead of doing this in a straightforward and direct manner, as is done by a dozen lines, in the space of fifteen minutes, under registration of title, the estate of the mortgagor is conveyed to the mortgagee by deed subject to a right of redemption. The latter then gets possession of the deeds, and, as the conveyancers express it, 'sits on them.' The consequence is that the mortgagor, in the event of his requiring a further loan, is placed in a most injurious position; for the second mortgagee would not only be hampered in his remedies in case of default, but also liable to be ousted of his security by a subsequent mortgage tacked on to the first. The consequence is that, however ample the security may be in point of value, second mortgages are, as a rule, interdicted in settlements, shunned by prudent men, and only accepted at exorbitant rates. For example, suppose a borrower to offer a second mortgage on an estate value 100,000*l.*, but already charged with 10,000*l.*, and another borrower to offer a first mortgage of the same amount on an estate worth 20,000*l.*, only the latter would have no difficulty in finding a mortgagee at 4 per cent.,

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whilst the former would have considerable difficulty in finding a mortgagee at a much higher rate, though the cover he had to offer was 80,000*l.*, as against 10,000*l.* offered by the latter.

Even if the space at my disposal admitted, it were needless to add any further counts to this indictment in order to prove that 'the system of conveyancing presently in operation in this kingdom' is, by reason of its insecurity, costliness, delays, complexities, and cumbrousness, unsuitable to the requirements of this commercial age, and does seriously depreciate the natural value of estates and interests in land.

I will now proceed to explain that 'duplicate method' of applying the principle of registration of titles, which, tested by the experience of twenty years in the colonies, has been found adequate to every requirement, and will then reply to the arguments by which it has been attempted to prove that method to be incapable of application in this country.

Lands in the colonies alienated from the Crown subsequent to the date appointed for registration of titles to come into operation remain thenceforth subject to its provisions. Lands granted prior to that date are brought under that system upon the voluntary application of the proprietors, and cannot be withdrawn from its operation. The procedure is as follows:—The person or persons in whom, singly or collectively, the fee simple is vested, either at law or in equity, may apply to have the land placed on the register of titles. These applications, together with the deeds and other evidences of title, accompanied by plans of the lands furnished by licensed surveyors and certified correct by statutory declaration, are submitted for examination to a barrister and to a conveyancer, who are styled 'examiners of titles.' These gentlemen examine the titles precisely as they would do on behalf of an intending purchaser under the old law. They report to the 'Registrar,' or 'Recorder of Titles,' as he is styled in some colonies—1st. Whether the description of the parcels of land is definite and clear; and in this they are assisted by a land surveyor and draughtsman. 2nd. Is the applicant in undisputed possession of the property? 3rd. Does he appear in equity and justice rightfully entitled thereto? 4th. Does he produce such evidence of title as leads to the conclusion that no other person is in a position to succeed against him in an action for ejectment? Should the applicant fail to satisfy the examiners in these particulars the application is at once rejected, without putting him to any further expense. Should the applicant, being in possession, be enabled to show such a title, although the evidence he adduces might not be sufficient

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to enable him to oust a tortious holder in possession, or to compel an unwilling purchaser to complete, the examiners would report the case to the registrar, with recommendation that notices should be served, and the claim advertised more or less extensively, according to the nature of the case and the domicile of the parties likely to be interested.

Notices are served upon the persons in possession, upon such persons, if any, as the examiners may indicate as likely to be interested either at law or in equity, and who have not joined in the application, and also upon the owners and occupiers of contiguous land.

These notices set forth the purport of the application, and intimate that unless objection be made by lodging caveat within the time prescribed by the Commissioners, the land will be brought under the provisions of the Act, and indefeasible title granted to the applicant.

If within the time appointed caveat be lodged, the action of the Registrar is suspended until it be withdrawn, or until he receives the final judgment of the Supreme Court upon the question raised.

If no caveat be lodged within the prescribed time, or if caveat so lodged be withdrawn, or set aside by the final judgment of the Court, the land is brought under the operation of the Act by the issue of certificate of title, vesting the estate indefeasibly in the applicant.

These certificates are in duplicate. They define the land in respect to which they are issued by description and reference to the Ordnance maps of the district, and where necessary by diagram on the certificate. They set forth the nature of the estate of the applicant, whether a fee simple or limited owner, and notify by memorials endorsed all lesser estates, leases, charges, or interests current and affecting the land at the time. Ample space is left for the endorsement of subsequent memorials, recording the transfer or extinction of these, and the creation, transfer, or extinction of future estates or interests.

Under this method the jurisdiction of the ordinary courts of the country is left undisturbed. No special court, such as the 'Estates Court, Ireland,' with its enormous expenditure, is required, and the applicants are not subjected to the expense of putting the paraphernalia of a court of justice in motion, unless there be some adverse claim to be adjudicated upon.

This principle of granting title to parties in undisputed possession, and showing *primâ facie* title in the event of non-claim after due advertisement and service of notice, is not novel to the law of England. An example of it is afforded in the

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proceedings for 'levying fines and suffering recovery.' That it is practically free from risk is proved by the all but complete immunity from error in granting indefeasible title by the Estates Court to about one-sixth of the land of Ireland, and to over 60,000 separate titles in the Australian colonies.

In order to explain the manner in which I propose to apply to this country my duplicate method of conveyancing by 'registration of title,' I will make use of a Bill drafted by myself with the aid of Mr. H. D. Hutton, an Irish barrister, which Bill was introduced into the House of Commons in the session of 1863 by the Right Hon. Wm. Monsell, now Lord Emly, backed by the names of the Right Hon. Mr. Herbert and Sir Colman O'Loghlen, since deceased. That measure passed the first reading late in the session, and never became law.

Sections 1 to 20 relate to the placing of land on the record, as already explained, and to the Office Establishment.

Sections 21 to 40 describe the 'record book,' the formal acts which constitute 'recording' and the effect of 'recorded title.' The record book is the pivot upon which the whole mechanism turns. It is compiled by binding together the duplicates of all conveyances and declarations of title issued by the Estates Court representing the freehold, each of which constitutes a distinct folium, consisting of two or more pages, set apart for recording together the memorials of all future dealings, whether with the freehold or any lesser estate or interest in the land represented by the conveyance or declaration of title until a change of ownership of the freehold is registered. When this occurs the existing declaration of title or conveyance is cancelled, the existing folium of the record closed, a fresh declaration of title issued to the new proprietor, and a new folium opened in the record book, upon which are carried forward the memorials of all lesser estates, interests, and charges affecting the land, and continuing current at the time of recording the change of ownership of the freehold.

Marking with the volume and the folium of the record constitutes recording of a declaration bringing land under the Act. Entry of memorial of any transfer, charge, or dealing, whether affecting the fee or any lesser estate or interest, upon the folium of the record constituted by the existing declaration of title of any land, constitutes recording of such transfer, charge, or dealing. Recorded estates are held subject to such charges, liens, estates, and interests as are notified on the folium of the record, constituted by the declaration of title, but free from all other charges, liens, estates, or interests whatever, and are

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indefeasible, except when the recording has been obtained by fraud; and the recording of a transfer or charge *bonâ fide* for value is indefeasible, even though it be from or through a transferor who obtained entry on the record fraudulently.

Printed forms of contract, with full instructions for the guidance of parties dealing, are to be supplied. These instruments must be filled in duplicate. All covenants essential to the existence, use, and enjoyment of estates and interests which are the subject of the contract are declared to be implied. Certain usual, though not essential, covenants may, by the use of brief forms of words, to which specific signification is given in the Bill, be stipulated as fully and effectually as if set out at length. It is also declared that, unless inconsistent with the context, the describing of any person as proprietor, transferor, transferee, mortgagor, mortgagee, lessor, lessee, &c., or as taking any estate or interest in registered land, shall include his heirs, executors, administrators, and assigns. Whenever the concurrence of any person interested is required in any instrument such concurrence may be signified by the words, 'I consent hereto.' By these provisions prolixity and verbiage are avoided.

When the property to be dealt with comprises the entire of the land, included under any existing declaration of title, or comprises the entire of any allotment or allotments in any township, a plan of which has been deposited, a reference to such declaration or plan for the description of the property will suffice, and a diagram will not be required. When the property to be dealt with comprises part only of the lands included in any declaration of title or allotment, the portion to be dealt with must be minutely described and delineated in a diagram accurately drawn to scale on the instrument, or annexed thereto, certified by statutory declaration of a licensed surveyor.

If the contracting proprietor does not attend personally at the Lands Titles Office and execute the instrument in presence of the Recorder, then the contracting proprietor, or the person who attested his signature, must acknowledge or prove the execution of the instrument before a notary public, justice of the peace, or commissioner for taking affidavits, who will attest such acknowledgment or proof by a certificate to that effect, under his hand and seal endorsed upon the instrument.

These instruments of contract, even when executed as above described, do not pass the estate or interest, but merely constitute the authority to the Recorder for entering the memorial of the transaction in the record. For this purpose

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the instrument may be presented at the Lands Titles Office or forwarded through the post. Upon receipt of these instruments the Recorder enters the recording memorial on the proper folium of the record, and on the instrument evidencing the title of the recorded proprietor; he then endorses the instrument with a memorandum, certifying the date of recording and the volume and folium of the record where the memorial has been recorded.

Entry on the record is the essential which gives validity to transactions. The memorandum certifying recording, endorsed upon instruments under the hand and seal of the Recorder, renders them conclusive evidence of title in all courts of law and equity. Recorded instruments are declared to be constructively embodied in the record, and one original of each is filed in the Lands Titles Office, the other being returned to the party entitled under it. Recorded interests take priority one over the other according to the date of recording, and not according to the dates on which the instruments of contract are executed.

Leases.—Sections 41 to 44 relate to leases. Leases for any period exceeding three years must be recorded in order to give them validity. Several parcels of land belonging to the same proprietor, though comprised in two or more declarations of title, may be included in the same form of contract for lease. The declaration of title representing the fee must be deposited at the Lands Titles Office with the contract for lease. The Recorder, after entering memorial of the latter instrument in the record, will enter the like memorial on the declaration of title, and endorse the contract of lease, both original and duplicate, with a memorandum of the day and hour when the same was recorded. The declaration of the title representing the fee will be returned to the proprietor when endorsed with memorial of the lease. One original of every lease will be deposited in the strong room of the Lands Titles Office. The other will be given to the lessee. The lessor may obtain a certified copy at the cost of a few shillings. These copies, certified under the hand and seal of the Recorder, are made *primâ facie* evidence in all courts of justice of all matters contained in the original instrument. Sub-leasing is conducted in the same manner, the memorials and certificates of registration being endorsed on the original leases instead of on the declarations which evidence the title of the proprietor in fee. The entire cost of leasing does not exceed ten shillings, and a registered lease may be transferred or surrendered by a simple endorsement at a cost of five shillings.

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Charges.—Sections 45 to 53 relate to charges. No portion of the system has made so sweeping a change in existing practice as that which relates to mortgage. The old fiction of transferring the legal estate is abolished, and the object is accomplished by a direct instead of by a circuitous course. In the language of the Bill, 'mortgage and encumbrance shall have effect as security, but shall not operate as a transfer of the land thereby charged; and in case default be made in the payment of the principal sum, interest, annuity, or rent-charge thereby secured, or in the observance of any covenant expressed in any recorded mortgage or encumbrance, or that is hereinafter declared to be implied in such instrument, and such default be continued for the space of one calendar month, or for such other period of time as may therein for that purpose be expressly limited, the mortgagee or encumbrancee may give to the mortgagor or encumbrancer notice in writing to pay the money then due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be, and that sale will be effected unless such default be remedied, or may leave such notice on the mortgaged or encumbered land, or at the usual or last known place of abode in the colony of the mortgagor or encumbrancer, or other person claiming to be then entitled to the said land or with his known agent.' In such case the recorded proprietor of the charge may sell either in one block or several, and either by private contract or public auction, and should the sum bid at such auction be inadequate to cover the amount secured, he may foreclose without further expense or delay, by producing to the Recorder evidence that the requirements of the law in respect to notice have been complied with, and that sale has been duly advertised, accompanied by affidavit of a licensed auctioneer, certifying the inadequacy of the highest bidding. In either event the Recorder is required to record the proprietor of the charge, or his purchaser as owner of the land; and, if the subject of the charge be an estate of freehold, to issue to him a fresh declaration of title, and open a fresh folium in the record, carrying forward on each the memorials of existing terms and prior charges, if any, unexpired or unreleased. The Bill further enables the proprietor of the charge, in such case, to distrain or enter into receipt of rent and profits.

Charges are released by memorial entered on the appropriate folium of the record, and upon the declaration or other instrument evidencing title, which memorial the Recorder is required to make upon production of receipt for the sum of

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money, annuity, or rent-charge; or upon production of evidence of the decease of the annuitant; or that the circumstances or conditions upon the occurrence of which the charge was contingent have ceased to be possible.

These charges on land are transferable by endorsement in a simple form, printed on the back of the instrument, evidencing the charge; and, as the title is indefeasible, they pass as freely as Exchequer bills between parties acquainted with the value of the property to which they attach. The expense attendant on creating a charge is but 10*s.*, the cost of transfer 5*s.*, and of re-lease 5*s.* The proprietor of the land may, if he thinks fit, upon payment of a further sum of 20*s.* and surrender of the existing declaration, obtain a fresh declaration of title, cleared of the memorials of all extinguished charges. Equitable mortgages for the purpose of securing cash credit and advances for fluctuating amounts, and also when parties desire secrecy, are created under this system with a degree of security and facility for realising unattainable under the English law of conveyancing.

Sections 54 to 57 relate to transfers. In order to transfer any estate or interest in recorded land the declaration or other instrument evidencing the title of the transferor must be deposited, together with the form of contract for transfer. The Recorder will then enter the memorial of transfer on the proper folium of the record; which act passes the estate or interest. If an estate in 'fee simple' or 'life estate' be transferred, the declaration of title evidencing that estate is cancelled, the folium of the record constituted by it closed, and a fresh declaration issued to, and a fresh folium opened for the transferee. If the 'fee' or 'life estate' in part only of the land included in a surrendered declaration be transferred, a fresh declaration is issued to, and a fresh folium opened for the transferor, for the portion retained by him. This, however, may be postponed in contemplation of further sales, in which case the original declaration of title is marked as cancelled in respect to the portion transferred, and the original folium is held open for recording future dealings. Memorials of leases and charges, if any, current and affecting the land, are carried forward on each fresh declaration of title issued and fresh folium opened.

Entails are effected by a similar procedure prescribed in section 58; the recorded owner executing a form of transfer to himself or any other person for life, with reversion to others in succession, with or without powers of appointment, and with remainder over as he may prescribe. In such case

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the existing declaration of title of the land is cancelled, the folium of the record closed, a fresh folium opened, and a fresh declaration of title issued for a life estate. Upon the death of the tenant for life this must be surrendered and a fresh declaration of title issued to the next reversioner for the estate to which he succeeds, in accordance with the terms of the instrument of transfer, executed by the original settler, as will more fully appear when we come to treat of transmissions.

Settlements and trusts are treated of in sections 59 to 65. No notice of trusts can be entered on the record; but a proprietor desiring to settle his estate, through the instrumentality of trustees, may transfer his estate to one or more persons by the procedure above described, and then deposit in the Lands Titles Office for safe custody and reference any instrument declaratory of trusts executed by the transferees, and by caveat prohibit the recording of any dealing except in accordance therewith, or with the sanction of the Estates Court. He may also direct the words 'no survivorship' to be entered on the declaration of title, the effect of which will be that without the sanction of the Estates Court no dealing with the property can take place until any vacancy occasioned by death or otherwise in the original number of trustees has been filled up. Persons beneficially interested in any settled estate may in like manner, by caveat, bar the recording of any dealing therewith, either absolutely or until after notice for a time specified has been lodged at an address given. The cost of transferring the fee, or a life estate, including certificate of title, is but 30*s.*; the cost of transferring a mortgage or a leasehold interest is but 5*s.*

The procedure above described has been found adequate to meet every requirement without, in any appreciable degree, curtailing the freedom of action heretofore enjoyed by proprietors. The facilities for settling or charging estates without the intervention of trustees, as described above, and under the head of charges, has, moreover, tended greatly to diminish the number of estates vested in trustees.

Transmissions.—Sections 69 to 78 relate to transmissions. No interference with existing law, relating to the transmission of property upon 'insolvency,' 'will,' or 'intestacy,' is attempted. These events, and also the marriage of female proprietors, are merely required to be authenticated to the Recorder in order that he may be enabled to recognise the parties entitled to deal, and the procedure prescribed will be found equally applicable under any future modification of the laws of 'inheritance' or 'insolvency.'

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Marriages of female proprietors are authenticated to the Recorder by production of the marriage certificate, accompanied by an application to have the particulars recorded and notified on the declaration or other instrument evidencing the title of such 'female proprietor,' and the husband may, thereupon if desired, and the land be not held for her separate use, be recorded as co-proprietor in right of his wife.

The insolvency of a recorded proprietor is authenticated by production of a certified copy of the appointment of assig ees to the estate, and so soon as the particulars of such appointment are recorded and notified on the instrument evidencing the title of the insolvent the assignees will hold the estate subject to the equities upon, or subject to which the insolvent held it, and will be entitled to deal therewith by the same modes of procedure.

The transmission of any 'charge' or 'leasehold interest' upon the death of the 'recorded proprietor' must be authenticated by production of probate or office copy of the will, or, in case of intestacy, by letters of administration, and so soon as the particulars are recorded and notified upon the instrument evidencing the title to such interest, the legatee, or executor, or administrator is placed in a position to deal with the property by the prescribed modes of procedure.

When a freehold estate is transmitted the 'devisee,' heir-at-law, or tenant, by courtesy, before he can sell, mortgage, or otherwise dispose of the property, must apply to the Estates Court to have his title investigated; and the Court, if they find the claim substantiated, would, after such notice and advertisement as they may prescribe, direct the Recorder to enter the devisee or heir-at-law as recorded owner of the estate.

General Provisions.—The remaining sections of the Bill relate to general provisions. As under this system the record constitutes the title, the loss of instruments is comparatively of little moment, and fresh or substituted instruments can be obtained at a trifling cost.

We have already described the method of posting the 'record,' also the various forms of instruments which constitute the authority on which titles are recorded when dealings take place. These instruments, when recorded, are endorsed with the folium of the record, constituted by the declaration of title of the land, where the memorials of them will be found entered in the order in which they were recorded. They are then numbered in consecutive series; one original of each is handed to the party whose title is evidenced thereby, the other is filed in the Lands Titles Office. A journal is also kept for entering

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the day and hour on which each transaction is recorded, with a reference to the instrument by number and symbol, and to the folium of the record where it is memorialised.

Under this method accumulation of instruments with voluminous indexes, the fatal objection to other systems, is avoided, as each separate estate of interest in each parcel of land is represented, so long as it exists, by one instrument only; and as each instrument necessarily discloses the nature of the property held by the proprietor, with all that a party dealing can require to know, search is unnecessary, except to ascertain the non-existence of caveats; and even that is accomplished without reference to any index, as each instrument indicates the folium where the history of the title is recorded.

The system is metropolitan. Under it a vendor meeting his purchaser, or a mortgagor meeting his mortgagee in the country, would procure the prescribed form of contract, fill it in, and sign it in presence of a notary. The purchaser or mortgagee would see the exact state of the title upon the inspection of the duplicate declaration in the hands of the recorded owner; and, having ascertained by telegram that there were no caveats prohibiting the dealing, might, with perfect safety, pay over the stipulated sum in exchange for the contract of transfer, or of charge, together with the declaration of title, which he would forward through the post to the capital to be recorded, with a Post Office order for the fees, and receive back the instruments endorsed, with certificate of record. In such cases the sole advantage of 'district' over 'central' registration appears represented in the cost of postage and telegrams. As this central method works satisfactorily in the widely-scattered population of Australia, there can be no doubt of its success in this country, where the facilities of communication are so superior.

Benefits of the System.—Through the operation of this system in Australia a saving of nineteen shillings in the pound sterling has been effected in the cost of conveyancing. The wealth of the community has been increased by restoring to its intrinsic value, as building sites, land which, deprived of that special character by imperfect evidence and technical defects in title, lay waste and unprofitable. The value of land as a basis of credit has been raised by the extraordinary facility and security with which equitable mortgages and registered charges are effected, and the ease and rapidity with which the title may be transferred from hand to hand. Through the simplification of titles, so that each freeholder stands in the same position as a grantee direct from the Crown, the risk of

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Chancery suits has been reduced to a minimum, and a ready and inexpensive procedure in foreclosure and ejectment has been obtained. Frauds, such as those which recently occupied so much public attention in the case of Roupell, are rendered all but impossible. Low as the charges may appear, they already suffice to cover the expenses of the system.

The objectors to this system are of two classes—the one denying the practicability of its application to this country, the other denying its utility if applied.

It is objected that, as titles in the colonies are of comparatively recent origin, the system which has there been so successful is inapplicable to the ancient titles in this country. The answer is that this objection does not apply to titles recently issued by the Copyhold Commission in England, or by the Estates Court in Ireland, as these, for all purposes of dealing under registration of titles, are on all fours with the recent grants in the colonies; and, again. the titles to some of the more valuable lands in the colonies date back over forty years, and, owing to comparatively frequent dealing and unskilful conveyancing, are as involved as any we have to operate upon in this country. The difficulties encountered in locating the parcels and ascertaining boundaries owing to imperfect survey, unskilled or careless conveyancing, and the non-occupation of land, are non-existent in this country, where parish boundstones and ancient hedgerows afford ready means of identification; and these difficulties are at least as great as the sum of all to be encountered in this country.

The comparative unfrequency of settlements and entails in the colonies, is persistently dwelt upon as evidencing that the same system of conveyancing cannot be successful in this country. The learned Chairman of the Parliamentary Committee of last Session, Mr. Osborne Morgan, in an article in the 'Fortnightly Review,' puts this argument thus: 'Settlements are rare, entails unknown, and the devolution of title following upon the original grant consists mainly of simple transfer from one hand to another either by way of sale or mortgage. It cannot be too often repeated that the first step towards making a registration of titles practicable, is to make a clean sweep of our present real property laws; and, until this is done, any further attempt to put Australian wine into English bottles, like all other legislation which ignores existing fact, will end, as such attempts have hitherto done, in failure and disappointment.' In this statement of the case the learned Chairman, like some other eminent jurists who, as Lord Brougham has put it, 'love and revere the mysteries which they have spent so much

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time in learning, and cannot bear the rude hand that would sweep away the cobwebs in spinning which they have spent their zeal and their days for perhaps half a century,' regards with distorted vision the facts on the other side, and assumes that Englishmen and Germans when they emigrate beyond the seas *animos cum cœlo mutant*, and leave behind them all sense of duty to make provision for their families.

The statement that entails are unknown is erroneous, and the comparative rarity of those and of indirect settlements is due, not to any difficulty in conducting these operations under registration of titles, but to the necessity colonists are under, during the early struggle of colonial life, to reserve their land as a basis of credit. These struggles over, and they feel the ground solid under their feet, the old-country instinct to make provision for their families prevails, and settlements and entails become less rare. I have already described the procedure in both cases; and the experience, though limited, especially in the more recent settlements, has been sufficient to place the possibility and the efficacy of that procedure beyond doubt. The object aimed at as regards settlement is the same in the colonies as in this country. The difference lies in the procedure by which it is attained; and, as in the case of mortgage, the fiction of conveying the legal estate when you only mean to pawn or hypothecate, and releasing by a deed of reconveyance when you only want a receipt for the mortgage money, has been abandoned in favour of a straightforward procedure; so in the case of settlement, the 'carving of a term of years' out of the estate, amongst other curious fictions, has been abandoned in favour of a simple procedure, and a reduction in cost from pounds to shillings, and in time from months to days effected.

I have next to deal with a class of objectors authoritative from their position, and persistent in putting forward fallacies which have again and again been exposed. Their contention is that, even if the system of registration of titles were applicable to this country (which they deny), it would be inoperative because titles are of two classes, viz. bad and good. The bad could not get on the register, and the owner of the good would have no object in placing them there, being perfectly satisfied as they stood. The fallacy here lies in limiting the classification of titles to two. There are, in fact, three—namely, bad titles, blistered or holding titles, and marketable or perfect titles. To place the first on the register with indefeasible title, would simply be to steal land—a thing which nobody, as far as I am aware, advocates or proposes. As

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regards the second class (a very considerable section; some will say as much as 20 per cent. of the whole), the indefeasible title affords an enormous inducement, by restoring land to its natural value, relieved from technical objections and doubts induced by the present system of conveyancing. The benefit is, indeed, so great as, in the judgment of experienced and competent men, to add materially to the wealth of the community at large. (See Evidence of Sir Arthur Blyth, Agent-General for South Australia, House of Commons Committee on Land Titles and Transfer.)

The case of land with a perfect marketable title is analogous to that of a nugget or ingot of gold. It requires to be re-weighed and re-assayed on the occasion of each transfer, for which purpose a piece is chopped off. But, once passed through the Mint, the sovereign-stamp passes it freely from hand to hand without any reduction or delay. Registration of title affords the equivalent of that sovereign-stamp.

This argument is boldly, I would say audaciously, advanced by the Royal Commissioners of 1868, par. 63 of their Report, thus: 'We have conclusively shown that purchasers do not want indefeasible title;' so little do they want 'indefeasible title that, for the sake of saving cost, they overlook certain blots and defects, forego requisitions, and are content with slender investigation.' Surely these learned jurists insult the intelligence of ordinary mortals when they represent as the outcome of free and deliberate choice that which they themselves admit is submitted to 'for the sake of saving costs' and ruinous delay.

This branch of the subject may be appropriately closed by referring to a higher authority than that of the learned Commissioners. Lord Cairns, in the speech which I have before quoted, says: 'I can assure the noble lord (Palmerston) that we have no plan in contemplation for turning a bad into a good title. What we do propose is, that those who have a good title should be entitled to procure a declaration of it.' I believe that, in point of fact, there are few titles which are not good. But there are titles which, though substantially good, are open to certain technical objections that are generally guarded against by conditions of sale, and which, in strictness, are of a nature which prevents you from saying a title is absolutely good; and it is very rarely the case, in regard to any one of these, that it could not by a little trouble or expense be cured. At present there are no inducements for a man whose title is open to such defects to have them removed, because their removal would occasion him expense, without

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any corresponding advantage upon a sale. But if you were able to assure him that by some such arrangement as I have described he could cure the technical defects which now exist, and then have a declaration of title *once and for all*, I am much mistaken if numbers of titles liable to these objections would not be cured and made good in form, as in substance, and be found to deserve the sanction of this measure. The course. therefore, which I anticipate is this, that those who desire to avail themselves of it, and have perfectly good titles, will at once obtain a declaration in their favour, while those whose titles are open to technical defects *will do what is required to cure them*, and so come in to secure the same advantage.

How, then, comes it to pass that hitherto all attempts to apply this system to the lands of this country have completely failed, though taken in hand by three Lord Chancellors?

The answer is that none of the measures referred to have either enunciated or kept steadily in view the fundamental principle upon which registration of title is based. Take Lord Westbury's Act. The governing section, the 63rd, runs as follows: 'Registered land may be conveyed, charged, settled, or dealt with in or by any of the following modes or disposition; that is to say, by statutory disposition in any of the forms described in this Act. 2ndly. By endorsement on the "land certificate." 3rdly. By deposit of the "land certificate." 4thly. By *any deed, will, judgment, decree, or instrument, by which such land, if not registered, might now according to law be charged, settled, devised, dealt with, or affected.*'

Here distinctly it is the execution of the instrument, and not the entry in the register, which is made operative to pass or affect the land.

The true principle is thus set forth in the corresponding provision of my measure (section 31): 'No deed or instrument shall be effectual to pass, charge, deal with, or affect any estate or interest in land subject to the provisions of this Act; but upon receipt of any instrument of contract or other instrument in conformity with the provisions of this Act, and of the proper fee for each case prescribed, the "Recorder of Titles" shall record the transfer, charge, dealing, or matter specified in such instrument in manner hereinbefore provided; and thereupon the estate or interest shall pass or become charged, dealt with, or affected in manner, and subject to the covenants, conditions, and contingencies specified in such instrument, or by this Act declared to be implied in instruments of the like nature.'

The permissive use of deeds granted under this 63rd

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section of Lord Westbury's Act involves a combination of two incompatible principles—'registration of deeds' and 'registration of titles'—producing a hybrid measure, which Sir Henry Thring (member of the Royal Commission of 1868) pronounces to be 'entirely unworkable, and to differ little from an incomplete registry of assurances, and to possess all the disadvantages without any of the advantages of the numerous schemes formerly proposed for the registry of deeds, and therefore should be altogether discontinued.'

Section 14 prescribes that the register shall consist of three separate books, viz. the 'Register of Estates,' to contain merely the map and description of each parcel of land; the 'Record of Titles,' in which are to be set forth the various estates and interests held in each parcel; and the 'Registry of Mortgages and Encumbrances' affecting the same; reference from each of these books to the other to be maintained by a series of numbers. After an experience of over twenty years in conducting registration in shipping and in land, I have no hesitation in saying that such a method as this trebles the work, and gives occasion for error and confusion which scarcely any vigilance could entirely prevent; and Mr. Spencer Follett himself, the chief of the department, in his evidence before the same Commission, repeated before the recent Committee of the Commons, admits that this cumbrous and involved mechanism 'does not admit of its operating on any such scale as would render it of sufficient public advantage.'

Again, the provision that 'no title shall be accepted for registration except such as a court of equity would hold to be a valid marketable title,' has been justly complained of as causing unnecessary expense and delay, at the same time limiting seriously the scope of the measure, and depriving it of what has proved to be a most valuable provision of the Australian method—namely, the conversion of good holding titles into indefeasible titles, as already pointed out. In the memorandum submitted to the Royal Commissioners of 1868 by Mr. Follett and the Assistant-Registrar, these, the chief officers of the department, state that in their opinion 'the title in certain cases taken by a purchaser is not necessarily indefeasible, and the question whether a purchaser does or does not take an indefeasible title is not decided by the Registrar, but he, the purchaser, has to satisfy himself whether the title shown by the deed or will is such as he intends to purchase, and he takes it on his own responsibility. In all such cases, therefore, the entry in the register is merely a registration of the deed of conveyance, and it has been doubted

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whether the title does not in these cases cease to be within the Act.' Surely this defect, if even it stood alone, is sufficient to condemn this measure.

Lord Cairns's Act is, to some extent, obnoxious to the same objections which caused the miscarriage of that introduced by Lord Westbury. Notably, section 49 admits of conveyancing of registered land being carried on by deed for an indefinite period. So far it is but a hybrid measure, an attempt to carry on two antagonistic principles in dealing with land. Again, this Act gives no indefeasibility of title as regards boundaries. Colonel Leach, in his evidence before the Royal Commission of 1870, gives his opinion on that point as follows: 'An indefeasible title would be of comparatively little value unless the lands to which the title applied were defined. Such a title would, in fact, apply to the individual and not to the lands, and not a single plot of land could be said to have, or be dealt with as having, an indefeasible title.' He further states (Query 111): 'Since the commencement of the work we have not found the slightest difficulty, either as regards maps, or in ascertaining all necessary particulars respecting the boundaries of the properties to be registered. The expense of survey is from 1*s.* to 2*s.* per acre, but the cases in which we have to require a new survey are very few; as a rule, the tithe maps are sufficiently correct.' The consequence of not according indefeasibility as regards boundaries is that recourse must be had to the old deeds to evidence the parcels. The retrospective character of titles, the origin of all the evils of the present system, is not cut off, and the aim and object of registration of titles is frustrated. The official mechanism for carrying out this measure, though a great improvement on that prescribed by Lord Westbury, is yet sufficiently cumbrous to warrant the opinion of Mr. Spencer Follett, 'that it could not be carried on on such a scale as would compensate for the expense.' The *ad valorem* charges appear excessive and deterrent.

Finally, even if free from these defects, the result of giving nominally to the proprietor, but practically to his solicitor, the option to place land under the system, and the power to withdraw it again from that system, is in itself sufficient to ensure its failure, as has been demonstrated in the case of the Irish Act.

It would be difficult, not to say impossible, to imagine conditions more favourable for introducing the system of conveyancing by registration of titles than those which exist in Ireland.

An admirable Ordnance survey, and the subdivision of the

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country into town lands corresponding generally with holdings, afford the utmost facilities for describing parcels. About one-sixth of all the titles in Ireland have, within a recent period, been purged of all defects and obscurities by being passed through the alembic of the Estates Court, and the people have been taught by experience to appreciate the value of indefeasible titles. Yet in Ireland, as in this country, the measure is a failure. The reason why is not far to seek. Unfortunately the legal gentlemen who undertook to revise my Bill of 1863, preparatory to its reintroduction in the following Session, deemed it politic, in order to propitiate Lord Westbury and induce him to undertake the carriage of it through the House of Lords, to import into it certain provisions of his own measure, which were antagonistic to the principle of registration of titles, and my remonstrances were ignored. The result may be learned by reference to the evidence of Mr. Denny Urlin, formerly examiner in the Estates Court, and in charge of the Record of Title. Mr. Urlin, examined before the Committee of last year, in reply to Queries 1986 and subsequent, informs us that 'the Irish Act embodies all the mistakes of Lord Westbury's which Lord Cairns's Act proposed to remedy. It is an imperfect system following rather closely Lord Westbury's system. It is permissive, so that any one by signing a simple requisition could exclude the operation of the Act as regards his land on its passing through the Estates Court.' Section 32 enables persons whose properties were upon the register to withdraw them at any period. 'A gentleman applied to me to remove his land from the register, and assigned as his reason for so doing that he wished to effect a loan, and the solicitors through whom he was to obtain the loan required him to remove his title from the record. I think when a title is once on the register it should, in the public interest, always stay there, otherwise owners are exposed to unfair pressure.' I have heard of similar incidents, and as a matter of fact, English landowners being an attorney-ridden people, option in these matters, though nominally given to the proprietor, is virtually given to his attorney. We are not, however, in a position to condemn professional men for opposing measures which, by the admission of the officials appointed to carry them out, are so defective and so 'incapable of being worked upon any such scale as would render it of sufficient public advantage;' and even when a method free from these defects is brought forward, we must not look for any superhuman disinterestedness from conveyancers or any other class of men. As the old conveyancer, the stage-coachman along the turn-

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pike road, regarded the locomotive and the rail, so must the legal conveyancer regard a system which would cut down his emoluments, and enable every man of ordinary education to transact his own transfers and other ordinary business. Upon this I would refer to the evidence of Sir Arthur Blyth. He says (pars. 1778 to 1867 of his examination before the late House of Commons Committee): 'Registration of title is almost universal; for one transaction under deeds now there are a thousand under the Real Property Act; it is a curiosity if you get a person with deeds. To a person wanting to borrow money of me I should say to him first, "Real Property Act, I suppose?" Then the next thing would be, "You do not want a lawyer, I suppose?" He would probably say "No." I should accordingly say, "Come with me to the Registry Office; you have got your certificate with you." I should draw out a mortgage on the counter at the Registry Office, where printed forms are provided, and have it witnessed, and hand it in to the clerk, and say to him, "It will be ready to-morrow afternoon, I suppose?" When the mortgage is paid off the transaction is even simpler. Supposing you were the mortgagor and I were the mortgagee. Before you gave me the money, I should sign this receipt before a well-known person, a credible witness, and give it to you, and let you go and clear your title. There is no necessity for the intervention of a lawyer; such a thing is never heard of. Marriage settlements are as common in the colony as here. In such cases as drawing wills and settlements the lawyers are called in; but in ordinary transactions they have very little business except as brokers. They get a commission on that business, but not in respect to services connected with registering, transfer, mortgage, &c. The Torrens Act is just as popular in the other colonies as it is in ours. I notice in the Sydney papers, just at foot of advertisements for sales of land, that "Torrens's Title" is always put. It seems to me that there is so great an advantage in the holders of property having a simple, intelligible, indefeasible title, as far as it can humanly be made, that no difficulties ought to stand in the way of carrying out such a wonderful reform. That is all I can say.'

Finally, I believe I may claim to have established, in answer to the question proposed: 1stly. That the system of conveyancing by registration of deeds, presently in operation in this city, has advantages decidedly superior to those afforded either by conveyancing with registration not barring notice in operation in Middlesex, and to those offered by conveyancing without registration, in operation in England generally. 2ndly. That the benefits derived by the community

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from the system of conveyancing by registration of title, as in operation in the Australian colonies, are immeasurably greater than those afforded by the Scotch or any other known system.

The question remains, How may that system be applied to the land of this country? The Parliamentary Committee to which I have so often referred, page 6 of their Report, put the case very fairly thus: 'On the whole, therefore, the position of the question appears to your Committee to be as follows: On the one hand they are informed, on the authority of Mr. Follett and Mr. Holt, that no system of registration or title can be devised which will be voluntarily adopted' (that is on account of the hostility of the profession); 'and on the other hand, they are told by the Lord Chancellor that he has not yet seen any way by which the registration of title could be made compulsory. That is, in the first place, on account of the absence of any satisfactory mode for dealing with titles so defective that they cannot be placed on the register; and secondly, in view of the deadlock which would be occasioned by the supposed necessity for dealing with the 1,000 cases daily estimated as occurring in England. The first of these difficulties has been successfully and satisfactorily grappled with, in the colony of Victoria, by a separate register for the class of titles referred to, and none of the injurious consequences predicated as incidental to that practice have arisen. Moreover, we have the authority of the late Lord Chancellor, of Sir H. Thring, and a host of eminent conveyancers, that such titles are extremely rare—so rare that they should not be allowed to bar the adoption of a measure of such enormous value to the community.'

The contingency of deadlock is guarded against, in the measure which I have been advocating, by limiting the compulsion to place land on the register to the case of transfers of fee simple estate, for we have it in evidence that not one in forty of the thousand dealings assumed to take place daily in this country is of that nature. But, happily, we have in Ireland and in this country a considerable amount of land the titles to which are exempt from the difficulties and dangers suggested by the Committee. I refer to the 'Estates Court Titles' in Ireland, and copyholds in England; and if the Legislature, notwithstanding the long experience in the colonies and the argument put forward above, still shrink from the responsibility of applying the measure more fully, then at least it may be applied to these latter titles as a tentative measure free from all possible risk. Fully a seventh of all the lands in

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Ireland have received Estates Court Titles, but are daily re-accumulating fresh entanglement under the operation of existing law, in so much that they require again to be passed through the court, at heavy cost and loss of time.

Since 1841, 12,000 titles have been enfranchised under the Copyhold Commission, and these continue proceeding at the average rate of 600 per annum. Lord Brougham in his great speech on Law Reform, to which I have before referred, and in correspondence with the Earl of Radnor, as President of this Society, declaimed against the error that had then recently been committed by the Legislature when attempting to assimilate tenures, instead of relieving the copyholds from the heriots, manorial fines, and other oppressive and inconvenient conditions of a past age, and applying its simple, cheap, and secure methods of dealing to all the lands of England, proceeded on the opposite principle of abolishing copyholds, and subjecting all lands to the grievous complexities, doubts, delays, and heavy cost attendant on conveyancing. His Lordship gives an extract of a letter from his friend, Mr. Forest, as follows: 'The experience to which I refer is as steward to many of our Cumberland copyhold and customary manors during a period of thirty years. I never found an instance of disputed title in all the 500 estates of the manors, which have every one been repeatedly passed by sale, mortgage, and devise, or descent, and the cost of the conveyance never exceeds a few shillings, and the length of the deed 100 words.'

Registration of title by the method I have explained would rescue the 600 titles annually passing through the Copyhold Commission, and the large number passing through the Irish Estates Court, from the evils of the present system, and afford the solution of the dilemma in which the Parliamentary Committee represent the question to be placed.

On the Same.

By R. Denny Urlin, of the Middle Temple, Barrister, F.S.S.

Any scheme for facilitating the proof of title to land, and the transfer of land, if worthy of serious attention, will be found to range itself under one or other of these heads: Registration of Deeds, and Registration of Title. The distinction between these two methods it is hardly necessary to refer to, or at least would not have been necessary but for a retrograde tendency which has lately appeared. Strange to say,

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after a course of years, during which lawyers of the highest eminence, such as Westbury, Romilly, Cairns, and Selborne, have supported the better system, there are now to be found persons who are willing to adopt the crude and halting notions of the time of Queen Anne. Mr. Osborn Morgan's Committee and their report much surprised true law reformers, who have long seen that the arguments in favour of registration of title in number and weight far exceed those for mere registration of deeds. The Acts of Queen Anne, passed for Middlesex, Yorkshire, and the whole of Ireland, have been in force long enough to reveal most clearly their few advantages and their many defects. On the one hand, there is put on record the greater part (not the whole) of the evidence on which the title is based; and a deed when so put on record is virtually safe from accident or mischief; on the other hand, the registering process adds to the expense of every transaction, and very careful searches are rendered absolutely necessary. If these searches only disclosed what is relevant the case would be different; but they disclose deeds which may, or may not, really affect the title, and these require full explanation. Other deeds which are relevant to the title may have been executed for temporary purposes; but once on the register there they remain as permanent blots, requiring explanation again and again, so often as any portion of the property is dealt with. Then the register is silent as to a large class of facts material to titles—such as marriage, death, and heirship—and at best it is only a collection of evidence from which the intending purchaser must draw his own conclusions at his own risk.

Daily experience of the working of a Registry of Deeds, gained during many years of service in Ireland, under the Incumbered and Landed Estates Acts, has convinced me that the system is at once costly and defective, and to extend it would be to make a retrograde movement.

Registration of Title is evidently a better system, because it gives the result, the fact of ownership, at once, without leaving the inquirer to deduce it from the perusal of a long abstract of deeds and of other documents and occurrences. This better system prevails in most civilised countries, in our most important colonies, and at home in respect of the enormous property in railways, banks, and other joint-stock undertakings. An attempt has been made on a very small scale, and under great disadvantages, to introduce it both in England and in Ireland of late years; and I desire to call the attention of the section to the fact that, though limited in operation, the

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hoped-for results have been shown to be attained. The little offices where titles are registered may be regarded as working models, valuable chiefly as demonstrations of what might be done on a larger scale.

Years have passed away since it became clear to the practical mind of Sir R. R. Torrens that a registry might be established, giving to the owners of land all the advantages enjoyed by the owners of ships and fractional parts of ships. This task was rendered easier by the fact that most of the titles had a recent origin in grants from the Crown. After a few years of most valuable experience gained in the colonies, the question arose, Why could not advantage be taken of the statutory grants made by the Land Court in Ireland? But opposition was strong, all the prejudices of a powerful professional class being aroused. The only legislation permitted was an Act of 1865, which, amongst other defects, had the important one of placing on record not all the titles granted by the court, but only such as their new owners chose to place on the record. It followed that the operation of the Act was *excluded* by the legal advisers of nine-tenths of the purchasers in the court. The whole number of titles on the new record does not reach 800, an insignificant result in one sense, yet valuable in another; for experiment may be made on a small area as satisfactorily as on a large one; and a record which has proved effective for a few hundreds of titles might be expanded and improved so as to be available for many thousands.

Many unfortunate hindrances beset the course of this tentative Act of 1865. Only one of the judges of the Land Court took the slightest interest in the experiment; and the very distinguished and useful career of Judge Hargreave came prematurely to a close just as the machinery was getting into order. That was a fatal blow; for moral support and encouragement in official quarters was needed to counteract the prejudiced opposition from outside. The authorities refused to sanction the appointment of even one clerk for the new department, which was therefore tacked on as a kind of supplement to another office, and thrust away ignominiously into the smallest room of a range of buildings. This, and other circumstances equally unfavourable, led at once to the impression on the public mind that the Record of Title Act was not expected, or intended, to work largely. Such an impression once made could never be effaced, and the result was inevitable. So much for the limited operation of the Act. If the inquiry be made whether the expected results are attained in the case of the property actually brought under the Act, the answer is

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highly favourable. Mortgages can be effected quickly and inexpensively; and, better still, they can be satisfied and wiped off the record with even greater facility, and at the expense of a few shillings. Contracts for the absolute sale of plots of land have been made, carried through, and completed within the hour. The given folio of the record reveals all which affects the property, without searches elsewhere; and a short transfer deed and a new entry are only required to effect the change of ownership. The record itself is capable of simplification and improvement, for it was framed, and could not at that time have been otherwise than framed, after the model known as Lord Westbury's. But, in spite of all drawbacks, and of all the disfavour, official and professional, which have beset its history, I claim for it that it has given the true solution of the problem of land transfer in these countries. This is not the place for a minute description of a very interesting and effective machinery, and I will only refer to one feature which is regarded as of specially great value. The land judges have full power as regards the rectification of the record. This was aptly described as 'the safety valve' by Sir H. Thring, one of the few persons thoroughly conversant with the difficulties of this intricate subject. The general result, so far as Ireland is concerned, is that admirable opportunities have been thrown away, and several thousands of titles, after passing through the renovating process of the Land Court, are now year by year deteriorating, fast losing the signal benefit which was conferred, and becoming as cloudy and confused as titles were a quarter of a century ago. It is very unfortunate at the present moment that opportunities of this kind have been lost, and that land transfer is fast becoming almost as difficult and as costly in Ireland as it is elsewhere. For there are large numbers of Irish tenants ready to purchase their holdings, and the unhappy events of the last few months have rendered many landlords willing to sell at a reasonable price. The delay and cost is, however, such as to impede these transactions. I strongly recommend that existing methods be simplified in favour of such purchases by occupying tenants, and that the expense of them be reduced, as it might be, by two-thirds. Of course, an effective and compulsory registration of title should form part of the scheme, for it would be almost a mockery to subject these small freeholds to all the vexatious incidents of the ordinary system of conveyancing and real-property law, a branch of law which, it may be remarked, is, except in a few minor details, the same in Ireland as in England. It is of high moment to the peace and welfare of the Empire that discon-

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tented tenants should be turned into satisfied and industrious freeholders; and if the legal process be simplified (as it might be), the operation might in numberless cases be carried through on terms satisfactory to the present landlords. From what I have endeavoured to express in the fewest possible words, it follows that simplification of existing methods, supplemented by a general registration of ownership, is especially important at the present moment. And what is required for Ireland at a critical time like this is equally suited for, and would be warmly welcomed by, small proprietors of land in other portions of the Empire.

DISCUSSION.

Lord Denman, in opening the discussion, said that, having been for two years (1830-31) a pupil of Sir John Lefevre—when he was a conveyancer—he might make a few remarks. He thought the suggestion by the Lord Advocate of Scotland in his opening address for gradually extending a system of Registration changing gradually to a larger area, with an old system as a centre, might lead to a general Registration. With Sir Robert Torrens's remark, that a false summary of title if registered would be as bad as a theft, he (Lord Denman) fully agreed; and he thought that two great principles should be kept in view: one was that no deed should be allowed to have any validity unless it were registered as soon as possible after its execution, and the other that any false statement of title should be severely punished. He had known two instances of titles being very simple: one was when possession was given to him by the first Lord Denman, by delivery of a turf, part of forty acres of land—confirmed by a short deed drawn up by the Hon. George Denman; and the other, in which, by the conditions of sale limiting the title to one of a very recent date, the expense was very small.

Mr. John P. Coldstream, W.S. (Edinburgh), said that all Scotch conveyancers could testify that the system of registration in Scotland was a very safe one to all who held property, and they would recommend it with great confidence to their brethren in England. He regarded the paper of Sir Robert Torrens as of great importance. He happened to meet the manager of the Land Mortgage Bank of Australia some time ago, and had some conversation with him on this matter. He was very much struck with the extreme simplicity of the system of registration of titles, and he had asked him to send him a communication on the subject, that he might submit it to this Congress, with some remarks, applying it, if possible, to the Scotch system. He was extremely sorry that he had not yet received that paper; but he would recommend every Scotch conveyancer to consider the system which had been propounded and adopted in Australia. It was extremely simple and extremely cheap, two great recommendations; and if a similar

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system could be enacted in this country, and especially in England, so that they might procure a simple, cheap, and safe title to land, he believed that a great benefit would be conferred on the country. He rejoiced that the president occupied the office of Lord Advocate, because he felt assured that he would do all he could to procure for them such legal reforms as would tend to the good of the community; and he trusted that amongst other things his lordship would be able to bring about a thorough reform of the law on this subject of titles to land, which would accomplish the object they all wished to attain.

Mr. W. Griffith (London) said that the system of registration which Sir Robert Torrens had recommended was beneficial in its operation, simple in its procedure, and calculated to do a great deal of good in a country like Australia. It was, however, open to question whether it was equally applicable to this country, where the titles to land were so much more complicated. He did not speak altogether on theoretical grounds, for it was known that attempts had been made by two Lord Chancellors. Lord Westbury and Lord Cairns had both endeavoured to carry out such a scheme, and both attempts had been failures. It was found that the expense of carrying through the title was the great bar; and the titles, instead of giving additional security, often raised questions with neighbours with regard to boundaries. As a matter of practice, the registration in Middlesex was voluntary. It gave priority to those who were registered, but it was not an absolute necessity.

The President (The Lord Advocate) said that as he had only a very general acquaintance with the subject of the registration of titles in the Colonies, he would say, under correction, that he understood what was strongly insisted upon, under the name of registration 'of title,' was that instead of recording a deed at full length, with all its conditions and qualifications, they should record only the essential parts of it. The advantages of that system were that they saved much space in the public registers and facilitated the inspection of documents. At the same time, it was obvious that if they applied that system to a country where conveyancing had become involved, complicated, and artificial, their Registrar would find difficulty in performing the operation of separating what was essential from what was accidental and immaterial; and they incurred the risk that, through error of judgment on his part, something might be omitted from the register which a purchaser would regard as material, and which, not being disclosed on the registered title, gave him an estate with some restriction, or qualification of the title, of which he had no previous knowledge. In a new country it was possible materially to lessen, and almost entirely do away with, this source of danger to purchasers, by simplifying the forms of conveyancing, and by presenting in the statute itself those things which ought to be entered on the record, and those things which were to be considered extraneous to the contract. In England and Scotland they were in the habit of recording in a family settlement, not only the conditions of holding, but all the conditions affecting the administration of the estate by trustees. In Scotland it would be very difficult indeed to carry out a system of

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pure 'registry of title' without simplifying both their law of real property and their law of succession; but they might perhaps to some extent attain the objects of a registry of title by having, along with a register of deeds, what was analogous to an abstract; namely, a record containing in constant order brief entries of the various deeds affecting each particular subject or estate. He thought he might say that the existing Scotch system combined to some extent the advantages both of a register of deeds and a register of title. It was on that account, and because there was a nearer analogy between Scotch and English conveyancing than between either and the colonial system, that he ventured to suggest the introduction of the Scotch system into England. The great length of the English deeds was a serious obstacle; and yet, in the matter of expense, he could hardly think it would be so great as some of their friends supposed. Just suppose that by Act of Parliament, or by custom, every time a deed was executed, the solicitor was put under obligation to make one copy of it to send to his client. Would that add materially to the cost of the transaction? He should think not. He imagined that a pound or two would be the extent of the addition to the bill of costs. That was precisely what is done when they registered a deed—they simply had copies of the deeds made in the Registry Office and bound them in books; and really that would not cause the alarming expense and complication which some of their friends supposed to be necessary. If, however, they were to make it necessary that from the time the system of registration came into force, the purchaser was to start with a new title, good against all the world, then they opened up an inquiry of enormous magnitude and complexity, because it amounted to nothing less than a series of litigations, embracing ultimately the whole property of the United Kingdom. In the new colonies where they had only to go back to a recent grant from the Crown, the investigation of title created little difficulty; but in this country they could never go back to the original grant. If the Registrar was to find an indefeasible title, this would involve nothing less than the examination of all the deeds executed within the last eighty years, and the formation of an independent opinion of the effect of those deeds by the Registrar. For the execution of that duty they must have Registrars possessing the legal ability, reputation, and powers of the most eminent Judges of the Supreme Courts, and they must be able to find a sufficient number of men qualified to carry on that class of work. Were they because they could not attain the desired object of a register title, with the advantage of indefeasibility, therefore to forego the advantages of what was practically a very good title under the system in use in Scotland—a system which furnished the purchaser's solicitors with an accurate record of all the deeds that had been executed within the period of the search, and put him in a position to judge for himself of the validity of the title offered? No doubt, as had been pointed out, they got the same information under the English system—the agent for the vendor or mortgagor gave access to the deeds. But there was this distinction in favour of the Scotch system, that they were not dependent on the good faith or knowledge of the

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seller's or mortgagor's agent for their information; they got it from an authentic source, from the public register; and while the purchasers might not always get an indefeasible title, they got the means by which they could examine the title for themselves; and in ninety-nine cases out of a hundred, the solicitors would in a few hours be able to satisfy themselves whether the title was good or bad. The most eminent lawyers of the time had studied this subject and had not come to an agreement in their opinions. He would not like, therefore, to dogmatise upon it; but, at the same time, he was inclined to look with favour on their Scotch system as a good working system, though not a perfect one. He thought that the keeper of the Scotch register, if allowed to begin with Northumberland and Cumberland, and extend the system southward, would succeed in keeping such a clear and accurate record of all transactions in land as would facilitate the work of the solicitors and give general satisfaction.

Sir Robert Torrens, in reply, said that the difference between the registration of title and the registration of deeds was this, that in the registration of titles they recorded the title itself, but in the registration of deeds they recorded the deeds from which the title might be adduced with more or less uncertainty. With regard to deposits of titles for loans, the system of registration of title afforded the utmost facility for such transactions, and they were carried on on an enormous scale. Bankers usually took the opinion of their solicitors as to the validity of title-deeds deposited with them; but under the system of registration of titles that was unnecessary, as the certificate of title was the briefest and clearest proof of title that could be handed in by the owner of the land. Then this system was a check against fraud. It was quite true that the certificate of title might be forged, but there was a duplicate of that bound up in the Register Office, and no one could get access to the duplicate in the book to make any alteration in it. It had been found practically that publicity was the best preventive of fraud. The Australian system, in providing that every signature should be made in a public office before a public officer, afforded the best security against fraud. As to the alleged danger of a deadlock, because of the enormous registration business that would take place, he believed that there was an enormous amount of exaggeration as to there being one thousand deeds registered in a day. In South Australia, with a population of 250,000, there were 15,100 instruments registered in a year. He believed that a thousand instruments were not completed in all England in a day; but, supposing there were, not one in forty related to an estate in fee simple: the great bulk of them would relate to mortgaging, leasing, and such-like matters. The transfer of the fee of an estate was comparatively rare, and it was with them only that we proposed to deal in first placing the land on the register. At a cost of 7,000*l.* a year, fourteen officers in South Australia registered 15,000 instruments annually; and it was a very simple calculation what would be the cost of doing the same thing in England. He did not, however, advocate any measure which had not been thoroughly tested by actual operations embracing every description of dealing over a space of twenty-two years.

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BANKRUPTCY LAW.[1]

Is it expedient that there should be one Bankruptcy Law applicable to England and Scotland on the principles of the present Scotch system? By RICHARD VARY CAMPBELL, Advocate.

WHEN a man finds himself unable to pay his debts in full, it may be that he and his creditors all agree on what is to be done. If the creditors are all willing to abate something from their claims and to grant a discharge on payment of a composition upon their debts, this is a matter of private concern with which no third parties have any business to interfere. But if, as is the more common case, some of the creditors do not agree to the insolvent's terms, which others are willing to accept, it is necessary that public authority should intervene, and decide upon the course to be followed. The most obvious plan in such a case is to confer power upon a statutory majority of the creditors to overrule the dissentients, and to compel them to accept the same terms as the majority. The debtor is in default, and has for his part no legal right to insist on anything less than full payment being taken for his discharge. Older jurisprudence long stopped at this point, and refused to lend public authority to enforce any general settlement between a debtor and his creditors. Each creditor was entitled to act for himself, and to enforce payment of his own debt by legal process as he best could; and the first step in bankruptcy law was to interfere on the insolvent's behalf by personal protections against arrest or imprisonment, when it was clear that such proceedings at the instance of individual creditors were of no use except to satisfy private vindictiveness. Gradually, however, in all modern jurisprudence, it has been recognised that when a man is insolvent his estate truly belongs to the general body of his creditors, and should be divided among them fairly, according to their several rights and interests, and not according to the chances of a general scramble among them, each acting for himself. From this point of view the English statute law of bankruptcy has ruled that a majority in number, and three-fourths in value, of a man's creditors shall have right to determine what measures shall be taken with regard to the insolvent's estate for the common interest. If this statutory majority decides that the insolvent

[1] See *Transactions* 1876, p. 180; 1868, p. 281; 1867, p. 286; 1866, pp. 160, 255; 1865, pp. 115, 225.

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should convey his estate to a trustee for its collection and distribution among the creditors, then the resolution is registered and enforced by public authority, no matter what may be the wishes of the minority of creditors. In like manner the same statutory majority of creditors can compel the minority to accept any composition offered by the insolvent. In either case, whether liquidation by arrangement (*i.e.*, private trust for creditors), or composition, is resolved upon under the powers given by the English Bankruptcy Act of 1869, the like statutory majority of creditors can grant to the insolvent a discharge which will free him as well from the debts due to themselves as from the debts due to any dissentient minority. In this way, when creditors disagree among themselves as to the measures to be taken for making the most of the insolvent estate, the English law supports and enforces whatever a certain majority of the creditors may decide. Public authority under the existing English bankruptcy law asks nothing further than to be satisfied that the proper majority at the statutory meeting has personally, or by proxy, decided on a particular course. That decision is then registered and enforced without any judicial consideration whether it be right, and it need not be the resolution of an absolute majority of all the creditors on the estate.

Now there is no reason whatever why State interference, when creditors disagree about their settlement with an insolvent, should be given on different terms in Scotland and England. The problem in both countries is to be settled on identically the same legal and practical considerations; and in the interests of trade and commercial intercourse it is in the highest degree desirable that it should be settled in the same way in both countries. Nevertheless, it is a distinguishing peculiarity of Scotch bankruptcy law that it refuses to enforce the mere resolution of a majority of creditors in favour of a private trust or private composition arrangement. In Scotland, when the insolvent and a majority of his creditors are willing to settle by means of a private trust or composition, the State endorses and supports the settlement only if all the creditors can be induced voluntarily to accede; and an easy amendment of the law would give such a trust upon registration the legal effect of notour bankruptcy (act of bankruptcy). If, however, any of the creditors refuse their consent, and it is therefore necessary to apply to public authority in order to enforce some common dealing with the estate, the condition upon which compulsory powers can be obtained is that the estate must be placed under judicial sequestration, according to the process origi-

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nally introduced in 1772 and now established by the Act of 1856. The majority is not permitted to overrule the minority of creditors either for trust management or the acceptance of a composition, save under the forms of sequestration, and with all the checks afforded by the superintendence of the Court, and of a trustee responsible to the Court, to the creditors, and to the accountant in bankruptcy. The majority complain that all they want is to have a composition, and to be done with the insolvent. The State, in effect, replies that unless they can persuade all their fellow-creditors to consent, it will not coerce the dissentients except after taking precautions to see not only that the composition is wished by the majority, but that it is reasonable. The majority again urge that they are obstructed by the minority in having the insolvent estate managed to the best advantage by a private trustee of their own choosing; and the State replies that it declines to enforce any such trust management against dissentients unless under the checks of the sequestration statute.

As a matter of jurisprudence there can be no question that the State is quite entitled to refuse compulsory powers to any trust or composition except upon conditions suitable to secure that the arrangement is fair for all concerned. What these conditions should be is to be determined by experience and consideration of what is on the whole best for the public advantage. The only condition imposed by the English law is the existence of a certain majority at a meeting desiring a particular course; and this has at first sight the promise of saving expense and trouble by leaving the matter solely in the hands of persons interested to make the most out of the insolvent estate. Accordingly, this summary method of procedure by private trust or private composition, registered and carried out under a statutory resolution, has practically superseded the regular bankruptcy process of the English courts corresponding to the Scotch sequestration. But experience has, in the words of the late Select Committee of the House of Commons, proved 'that the principal defect in the working of the Act of 1869 is found in the facilities for fraud which result from the practice of liquidation and composition by resolution.' An insolvent debtor may be merely unfortunate, or he may be blameworthy without being fraudulent, or he may be a fraudulent debtor whom it is desirable in the public interest to have exposed and punished. The statutory majority of creditors to whom the English Act commits the right of settlement and rehabilitation, if they know of the insolvent's misconduct, may think it to be their business only to get the best terms

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out of him and his estate, which they can obtain; or (as is very common) they may think nothing of the matter at all but transmit the bad debt with their proxy to the first professional accountant who applies to them. Often the statutory majority is composed of friendly creditors, who from various motives desire to have their friend or customer re-established in business as quickly and as easily as possible. They may even—as in not a few trades—conduct their business by a system of artfully-arranged discounts, so as to lose little or nothing by the proposed composition. Even when the statutory majority has no interest except to get the largest dividend, the estate may be committed to a trustee subject to no effective superintendence. The creditors write off their debts in despair at the delay in realising anything from their debtor's estate, and the trustee with his confederates practically appropriates the assets. The result is in many cases that the creditors are compelled by the resolution of a majority, which satisfies the statute, to take an inadequate composition, or that the estate is committed for collection and distribution to a trustee who pays little or no dividend. Why mercantile men have never started companies for purchasing insolvent estates, and promptly paying the price to and among the creditors, is not obvious; but it is clear that the losses through these statutory liquidations in England are enormous and intolerable.

Things have never reached such a bad state under the Scotch system, which, as we have seen, requires judicial control by the ordinary Courts as a condition of compulsory powers. The most that has been said against this system is that its expense is disproportionately great for small estates—an evil which could be remedied by making the competency of sequestration depend not as at present on the amount of debts, but (as would be more rational) on the amount of extant assets. The expediency of leaving the settlement with an insolvent no longer to depend merely on the will of a statutory majority is distinctly recognised by the Select Committee which reported in August last. They propose that every debtor wishing to carry a private trust deed, or composition, shall begin by application to the Bankruptcy Court, which shall examine into—(*a*) 'The *bonâ fides* of such deed, of the statement of affairs, and of the debts alleged to be due to the alleged creditors; (*b*) The due execution of such deed; and (*c*) Whether a composition has been agreed to *bonâ fide* in the interests of the creditors in general.' In other words, every liquidation by arrangement or composition is henceforward to be subject to a process of litigation, in which the Bank-

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ruptcy Court is to be satisfied that the arrangement is right before it shall be enforced against any dissentient creditors. It may well be thought that the Scotch principle of having only one process—that of sequestration—is much preferable to that of instituting, in addition to the forms of regular bankruptcy, two new processes for deciding whether or not private trusts or private compositions are to be enforced by public authority. When there is only one process, it becomes known and understood by the public; and it can be improved from time to time, as experience may suggest. The way to ruin the Scotch bankruptcy system, and to set everything in confusion, would be exactly to introduce (as the committee propose) some new side processes for trying, before giving compulsory effect to, private trusts and compositions. The question which arises is whether it is not better in England, as well as in Scotland, for the State to take firmly the same position towards creditors. If all agree with their debtor, the settlement shall be good; but if it is desired to compel a minority to accede to common measures, public authority might justly only interfere on the conditions set forth in the sequestration statute, which are proved by experience to be necessary for the protection of creditors as well as of the public interest.

Sequestration is only the central feature in the bankruptcy system. There are, besides, the Statutory and Common Law provisions for setting aside conveyances in fraud of creditors and for preventing fraudulent preferences. In England constructive bankruptcy is carried back for three months, and in Scotland only for sixty days, from the date of actual bankruptcy. In England, also, a fraudulent preference given by an insolvent within this period is not set aside if the favoured creditor was in good faith and ignorant of the insolvency. Nor, on the other hand, is it set aside if the creditor obtained it by using pressure in full view of the desperate condition of the debtor's affairs.[1] After these curious exceptions, the only fraudulent preference within three months of bankruptcy which is set aside in England is one voluntarily and of his own accord given by an insolvent to a creditor who is not in good faith. In Scotland little or nothing is known of such distinctions; and any security, delivery, or payment made or given for a favoured creditor's satisfaction, within sixty days of bankruptcy, and out of the ordinary course of business, would be set aside by the Scotch courts, whether or not the receiver had been using pressure or was aware of the insolvency. With

[1] Cf. *Ex parte* Topham, L. R. 8 Ch. App. 614 and Butcher *v.* Stead, L. R. (H.L.), 7 Eng. and Ir. App. 839.

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regard to the insolvent's dealings beyond the period of constructive bankruptcy, the common law of Scotland seems to be more vigorous than that of England in setting aside conveyances in fraud of creditors, when both the insolvent and the receiver are acting in collusion. The provisions of Section 91 of the English Bankruptcy Act seem, on the other hand, to be more expedient and effective against voluntary settlements, than those of the old Scotch Act of 1621, on the same subject. All this part of bankruptcy law would admit easily of assimilation. So also as to the principles of ranking or marshalling in bankruptcy among which the English rule as to the distinction between the estates of partnerships and of partners, seems the more suitable to a commercial country.

The same may be said of the criminal law relating to fraudulent bankruptcy. In both countries, since the somewhat crude and hasty bankruptcy legislation of last session, it is now nearly the same; and with the same glaring defect of pressing hard upon the small dealer, while it provides no whip for the great offender whose whole course of pretended business has been reckless and fraudulent gambling with thousands or millions. This, however, is a defect which can only be cautiously remedied by legislation as public opinion will permit in both countries. Imprisonment for pecuniary debts has been abolished absolutely in Scotland, except in the case of taxes or alimentary debts. In England it is still competent, with leave of a judge, and under this reserved power 5,820 persons were imprisoned in 1878. Of these 3,297 were imprisoned for sums of more than 5*s.* and less than 40*s.*, while twenty-eight were imprisoned for sums of less than 5*s.*, the cost of the debtor's maintenance in prison being in every case borne by the public, and not, as in Scotland, by the incarcerating creditor. It is obvious there is something wrong in this department; and if the statute of this session is right for Scotland, the same rules should prevail in England. The ancient system of *cessio bonorum*, which has been left in a somewhat unintelligible state by the late Act, might well be improved into a cheap and complete bankruptcy arrangement and discharge for the benefit of small debtors; and the statistics about imprisonment under county courts judgments show the necessity for some such process in England. The whole subject of bankruptcy in both countries is thus one which peculiarly needs and invites complete and consistent assimilation, upon the principles found to be best by the hitherto separate experience of the two kingdoms.

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DISCUSSION.

Mr. Daglish (Jarrow and Newcastle-on-Tyne) said it was pleasant to hear from the paper just read that in England they were not very much inferior, so far as their bankruptcy law was concerned, to that of Scotland, and that there were some things in the English law which it would be advisable to extend to the other parts of the United Kingdom. He found that the English Bankruptcy Law, as recently amended, was not giving so much satisfaction as some people had expected. One thing especially complained of was the enormous cost of private liquidations. In fact these costs had got to such a height that, as a general rule, if an estate got into liquidation all idea of a dividend might be fairly abandoned. Many of those familiar with this question in England thought that progress was not always reform, and they looked back with regret to the time when, under the Bankruptcy Law of England, a learned Equity lawyer presided over Bankruptcy Courts, and when every case was brought before the court, and such a thing as liquidation by consent was unknown. The Bankruptcy Court judge was then assisted by two official assignees, who had fixed salaries, and whose only object was the realisation of as large a sum of money as possible out of the estates of the creditors. That was most excellent machinery; but suddenly it was discovered in England that the Scotch system was better; that the creditors had not sufficient control over their debtor's estate; and that the system was expensive. The Scotch system was then introduced into England; and he wished they would send it back to Scotland, because they found that under the former system every case before the Bankruptcy Court was investigated by an official assignee, trained in the work, and doing it in the most vigorous and exact manner, while he had no interest to delay or prolong the investigation; and that system, though costly, was efficient, and not so costly as placing the estate in the hands of the creditors. If the creditors attended to their own interest in the management of the bankrupt estate, theoretically that was the best course; but the creditors really did not so attend to it. For the first few weeks after the bankruptcy the creditors worked vigorously; but they had all their own business to attend to, and they soon became careless in regard to the bankrupt estate. Then the system of proxies was a most obnoxious system, for which canvassing went on. Then if one happened to be the largest creditor, though not having a numerical majority, he was outvoted, and it often happened that at the first meeting the bankrupt got a discharge, and all investigation ceased. As an English lawyer he had, therefore, a most gloomy opinion of the present state of the Bankruptcy Law as regarded liquidation, and he would look with great pleasure to their reverting to the former English system.

Mr. Peter Morison, S.S.C. (Edinburgh), said he had listened with considerable pleasure to the paper which had been read by Mr. Campbell, and he thought that he had correctly pointed out the true secret of bankruptcy administration—that was, that there should be only one

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mode for winding up all estates in bankruptcy. He recollected that, some time before the Bankruptcy Act of 1869 was passed, considerable dissatisfaction was expressed by mercantile men in England with the state of the bankruptcy law at that time; and a Commission of Inquiry was appointed, which strongly disapproved of the system of administration by the Court through numerous officials, such as its registrars, official assignees, ushers, and brokers. Speaking from recollection, he thought that one witness described the then existing Bankruptcy Court as 'a sink of iniquity,' and all of them spoke of it in terms of the strongest condemnation. At that time it was found that the Scotch bankruptcy law worked fairly well, and it was said that there was no reason why the Scotch system should not also work well in England. Accordingly, the Bankruptcy Act of 1869 was framed upon what was supposed to be the lines of the Scotch Act of 1856; but, unfortunately, the English Act did not follow the lines of the Scotch Act, because it allowed three different modes of winding up estates—one in bankruptcy, another in liquidation, and a third by composition; and while checks were appointed upon the proceedings of the parties in bankruptcy, no checks whatever were appointed upon the proceedings of the parties who carried out the administration of the estates under composition and liquidation. There was also a limit fixed, below which the discharge of the debtor could not be got in bankruptcy, but there was no such limit if either of the other two modes were adopted. The consequence was that no insolvent, if he could possibly help it, would go into bankruptcy; and every one who expected to have a hand in administering the estate wished to be free from the checks which were appointed upon his intromissions if the estate went into bankruptcy. Hence all estates went into liquidation, either by composition or by arrangement. Here was a paradise for all concerned. The insolvent got his discharge with the utmost facility, and without having to undergo a public examination. The trustee was not subject to any control whatever; so much so, that it had been found that a trustee under liquidation could practically do what he pleased with the estate. Now in Scotland they had only one system. No doubt they had what were called cases of *cessio bonorum*, but these formed no part of the proper Bankruptcy Law; they were only part of an old system for liberating debtors from prison. And there was this provision, that any creditor to the extent of £50 might supersede a trustee appointed in a *cessio*, and throw the estate into bankruptcy. For all practical purposes, therefore, they had only one mode of winding up insolvent estates in Scotland; and every trustee was under the control of the Court, and under the rigid superintendence of the accountant in bankruptcy. The latter, he must say, had been found to be of the greatest advantage in keeping down the expense of bankruptcy proceedings, and for insuring the speedy division of the estate among the creditors. He thought that if all the bankrupt estates in England had been placed under the superintendence of the controller in bankruptcy in the same way as trustees in Scotland were put under the supervision of the accountant in bankruptcy, they would not have heard anything of such scandals as had arisen under the English

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system. He came in contact, from his business, with a large number of English creditors, and, without exception, they had expressed themselves satisfied with the working of the Scotch system, and expressed themselves as most dissatisfied with the working of the English system. There was another matter to which Mr. Campbell had alluded; and he was sorry to say that a sort of division had been introduced into what might be called their Bankruptcy Law by the Act lately passed abolishing imprisonment for debt. He thought it would be found in practice that that Act had been very hastily passed, and he thought it was a misfortune for Scotland that during the time it was in the House of Commons the Lord Advocate was not a member of that House, because he did not think it would have been passed in its present shape had the Lord Advocate been in Parliament at the time. It needlessly interfered with the constitution of *notour* bankruptcy. To him it seemed monstrous that a mere charge on a bill for say £10 unsatisfied for six days should constitute *notour* bankruptcy, and warrant a bankruptcy petition, or an application to have the debtor ordained to execute a *dispositio omnium bonorum*, with accompanying publication in the *Edinburgh Gazette*. Moreover, there was no provision whereby the unfortunate debtor, who might be deprived of his whole estates at the will of the paltriest creditor, could obtain his discharge; so that during the remainder of his life he must be subject to the penal clauses of the Act. He thought that the Act would work mischief. There was no such desperate hurry for the abolition of imprisonment for debt, and he thought it should have been done more calmly, and by a more satisfactory enactment.

Mr. Herbert N. Mozley (Secretary of the Department) said he thought they would all agree with the remarks which had been made in the very admirable paper which had been read that day in reference to the facilities for fraud in the English system of proceeding under the bankruptcy law, because it was a common complaint that those who supported the resolutions for a composition were private friends of the debtor, who combined together and overwhelmed dissentients.

Mr. R. A. Macfie (Dreghorn) believed that opinion in England was in favour of an approximation to the Scotch system. His object in rising was simply to say that there seemed to be a glory about failing for a large sum. They should try to bring it about that, if a man fail at all, it should be a great honour to fail for a small sum. Under the present system, when some men got into difficulties, they go into gigantic schemes, and if these turn out successful all is right, while if they fail there is a certain glory about the failing for a very large sum. He would be in favour of a law which provided that a bankrupt should get no certificate unless he could prove that for a long time he had kept to his ordinary moderate-sized transactions.

Mr. J. Campbell Smith, advocate (Edinburgh), said that most Scotch lawyers who had thought of this subject at all would come to conclusions similar to those of Mr. Campbell, and any one upon the north side of the Tweed to whom the special question was put would answer it in the affirmative, and say that it was expedient to transfer the Scotch system to England; and the only difficulty one could see

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was in ascertaining why that had not been done. He had understood, since he attended the first meeting of that Association in Birmingham twenty-four years ago, that the English commercial men who had paid any attention to the subject were, in so far as they had expressed any opinion at all upon the subject, quite prepared to accept of the Scotch Bankruptcy Law, and to have it transplanted to England so far as that could be done. There was not so very much difference between English and Scotch education, even in matters of law, as to render it impossible to transplant the Scotch system to England. They had had a long experience of the Scotch system. Not merely since 1856, but from 1839, when Lord Murray's Act was passed, practically the same principle had been adopted, which he took to be this, that the creditors themselves were masters of the situation by means of appointing the trustee, and that they, through the Commissioners and through the trustee alike, had the power of attending to their own interest in the way of distributing the bankrupt estate amongst them, just in the same way as it was done in the time of the Romans, even to the distribution of the bankrupt's person amongst them when he had not sufficient to pay his debts. The last Bankruptcy Act did not transplant the Scotch system to England. He did not recognise the English system to be the same as that adopted in Scotland; and it was quite clear that those schemes or devices called liquidation by arrangement were just methods, under cover of law, of defrauding the creditors. One thing was perfectly certain in English bankruptcy practice, and that was that creditors got precious little out of the estates. The machinery of the English Bankruptcy Law was a wonderful machinery, but it used up the whole of the bankrupt's estate in the way of furnishing oil to keep it going. There were a number of official or semi-official persons who clearly lived upon the system, and had a vested interest in its maintenance; and it was found impossible in practice in many cases to get almost any part of the bankrupt's estate for the creditors. Now one might surely hope that the practical faculty of Englishmen might effect a remedy for these evils. The mere terminology was of little consequence. What one required to keep an eye upon was that terminology should not rule the situation, and that salaried officials should not be able to rule the situation and to look to their own interests irrespective of the interests of the public. One thing in the administration of the English Bankruptcy Law was especially to be deprecated. Why should the bankruptcy statute not be administered in the ordinary courts of law in England just in the same very as the other statutes? He knew that in England the County Courts were much in the same situation as the Scotch Sheriff Courts in respect to the Bankruptcy Law, but he understood that all the County Courts might have their judgments brought by appeal before the Court of Bankruptcy in London; and where they had a Court of Appeal separate from the other Courts of the country, the necessary consequence was that it was the Court of Appeal that laid down the law, and it was the Court of Appeal that was the vital test of whether they had a separate system or not. Though the subordinate Courts had a mixed jurisdiction, if the Court of Appeal had an isolated jurisdiction

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it was that Appeal Court which regulated the whole Bankruptcy Law of England. However, that was a trifling matter altogether. The real difficulty was in getting rid of the whole machinery—in getting rid of the officials, who had, perhaps, an interest—he did not make any aspersions against their fairness—but they had an interest in keeping up the old system, and that, he was convinced, was the chief obstruction in transferring the Scotch system to England. He felt perfectly convinced that, along with any English lawyer who understood the subject, the Lord Advocate in the course of an evening would be able to convert the English terminology so as to make the Scotch system available in England; and if Scotland had no reason to complain after fifty years' practice of their system, why should England be afraid to accept it? Scotland had been made the subject of bolder experiments, and they were quite satisfied with the result; and he thought that Englishmen might probably have a little more faith in what they had been able to do in Scotland.

Mr. Daglish (Jarrow and Newcastle-on-Tyne) said that, unless he was sadly in error, in the Bankruptcy Court of England there were no vested interests and no special salaried officials. With regard to the County Courts, which administered the English Bankruptcy Law, the officials had no interest in prolonging cases in bankruptcy. He was a salaried official of a County Court, but in his Court there were no fees in bankruptcy cases. The whole estate of the debtor was placed in the hands of the creditors, by whom the trustee was appointed, and it was the agent of the creditors who was the salaried official in bankruptcy cases. He was sorry to say that there was a vested interest of the accountants, but these were appointed by the creditors themselves.

Mr. G. Auldjo Esson (Edinburgh), the accountant in bankruptcy, said he would like, in the few words he had to say, to direct attention to the fact that the great question at issue was as to the administration of the estates. If the public were prepared to take that administration away from the creditors, who were the parties really interested, and to vest it either in courts or in officials, he thought that a very great mistake would be committed. As to the judicial control, there could be no possible question of its extreme necessity. There should be easy access to the ordinary law courts upon questions of bankruptcy. He thought that easy access to the Courts had been one of the causes of the success of the Scotch system; for during a period of two centuries there had only been four or five bankruptcy statutes in Scotland, and they had not been very divergent. They had all gone on the same principle, and latterly they had availed themselves of an English form of control by creating the office which he had now held for nearly a quarter of a century. The great principle of the Scotch law appeared to him to be that while it left the administration of the estate to the creditors, it had established in the ordinary Courts a judicial, and in his office an official, *control* over their proceedings. He had, however, the misfortune of not being supported by a sufficient staff of clerks to enable him to carry through the law as it ought to be administered. The great feature in

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the Scotch practice is that there is no evidence, looking to the judicial statistics, of any widespread desire to avoid the judicial and official control, by adopting, as he understood was the case in England, a system of liquidation which is entirely beyond such control. These uncontrolled liquidations have been apparently one principal cause of the dissatisfaction with the English system under the Act of 1869. This Act has proved to be a very imperfect adoption of those principles which have throughout guided the bankruptcy legislation in Scotland. There is one great blot in the Scotch system which has been, unfortunately, copied in England, and that is the improper use of proxies or mandates in the administration of the estates. The use (without sufficient discrimination) of general proxies or mandates in the election of trustees in bankruptcies in favour of parties competing for the management of estates is open to great abuse, and has been justly complained of in practice. In the election of a trustee the creditors ought to be careful to give their proxies, limited to this *special* purpose, in favour of the person who they have reason to believe will administer the estate entrusted to him to the greatest advantage. *General* proxies or mandates may be abused by the mandatories in the administration of the estate, while the creditors are kept in ignorance of the abuse of the powers which they have carelessly granted. He thought that very encouraging results had arisen from the improved education of those men who were entrusted with the management of estates. There were now in the country institutes or societies of accountants which were well calculated to elevate the status of those seeking the administration of estates in bankruptcy.

Mr. R. V. Campbell (Edinburgh), in reply, said he thought there was one remark which ought to be made very distinctly, and that was that their English friends were under an entire delusion in imagining that they had the Scotch system in England, or that it was the Scotch system that had broken down. When there was a bankruptcy in Scotland the one compulsory process by which it was managed was the sequestration process. It was true that England adopted the sequestration system, but at the same time it adopted composition by resolution and liquidation by arrangement; and it was by the adoption of these two things, in addition to the Scotch system of sequestration, that the English system had broken down. The Select Committee of the House of Commons reported that the sequestration process which they took from Scotland—namely, the form of adjudication in bankruptcy—was practically inoperative. The tenor of the committee's report was that in future bankruptcy process should be before one of the regular Courts of the country, and they recommend the abolition of any separate bankruptcy jurisdiction, and wish it to be a department of the High Court of Justice. The judge was to determine in the new process whether it was right and proper that there should be a liquidation or a composition, or whether adjudication in bankruptcy should be the form. The object of his paper was to show that that was really attempting another novelty, and that they would be trying to institute two new processes, in addition to the existing forms of adjudication, in order to do that which had been successfully

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done in Scotland for a hundred years by the process of sequestration. In Scotland they had only one process—that of sequestration—and all they could say, in the loudest tone possible, to English reformers was, 'Do not imagine that it is the Scotch system that has broken down, and that you have tried it; for you have tried a different system.' The further recommendations of the Select Committee were towards the adoption of the Scotch system, subject to the two proposed litigations for trying the justice of private settlements; but Scotch lawyers thought the best plan would be to adopt the whole Scotch system as it stood. The creditors should find only one form of compulsory procedure, and not three. He thought this was one of the matters in which uniformity of law was perfectly feasible; and the separate experience of the two countries might be utilised so as to make a really good bankruptcy code worthy of the position of this country as a commercial nation.

The President (the Lord Advocate), in summing up the discussion, said he had listened with much interest to the paper and to the discussion which had followed it, in which the writer and the speakers had endeavoured to compare the English and Scotch bankruptcy systems, with a view to the conclusion that these two systems should be assimilated. As an abstract proposition, he supposed that no one would dispute that it was desirable that the bankruptcy law of two portions of a kingdom which was so entirely one in its social and commercial relations should be alike. There was, however, less practical interest for the framers of the laws in regard to the mode of the distribution of estates than there was with reference to the bankruptcy law in the more general sense. With regard to the rules which determined priorities, and the criteria of insolvency, and so on, he did not think there was very much difference between the laws of the two countries. When they came to the administration of the estates the difference was at one time very great, but under the operation of the Act of 1869 it had been materially lessened. The present English bankruptcy administration displayed an approximation to that which had for a long time been in force, with general approval and advantage, in this part of the country. The effect of the approximation to the Scotch system had been the reverse of what was anticipated, and instead of estates having been wound up more economically and promptly, the Act was a failure in the opinions and experience of the gentlemen who were concerned in looking after the interests of creditors. He did not think, however, that for that reason they need despair of the ultimate assimilation, with benefit to the law of England. It had often been found that, in endeavouring to introduce any process or manufacture which was established in one country into another where it was less known, unsatisfactory results were obtained, merely because some slight peculiarity, on which the efficient working of the whole operation depended, had been overlooked, or because some condition essential to success was not found to exist in precisely the same form in the new country. It was difficult for those who had not had experience of the English system to know what was the precise cause of the failure—or at least the imperfect success—which had attended the introduction

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of the Scotch bankruptcy system into England; but it occurred to him the cause had nothing to do with the supposed conservative and phlegmatic temperament which his friend Mr. Campbell Smith attributed to the English mercantile public. He would rather say, and the remark applied more especially to London, that business proceeded in the great centres of industry in England at such a rapid pace, and under such constant pressure, with such large demands on the time of the gentlemen engaged in it, that they could not easily attend to the administration of the estates of their bankrupt debtors. That was a cause which must always exist, because the magnitude of transactions was greater in England than in Scotland on the whole, and the difficulty was rather aggravated by the retention, under the new bankruptcy law of England, of the old system of liquidation by arrangement; because he took it that the estates which were liquidated by arrangement were generally the best cases of bankruptcy—the cases of debtors who were supposed to have been fair in their transactions, and who had been overtaken by misfortune, and against whom creditors would not desire to enforce the compulsory machinery of the Bankruptcy Laws. In these cases the creditor had no inducement to look after the distribution of the estate, and when he had signed his name to the deed of arrangement he would take no further interest in the matter, except to receive his dividends. It was, therefore, in the main the inferior class of bankruptcy cases which were committed to the care of the Bankruptcy Court, and to trustees appointed by creditors. Under such a system it was not unnatural that the creditors should fail to interest themselves in the administration of estates from which experience had shown them that there was little hope of recovering anything. Under a system such as that of Scotland, where arrangements were not recognised, and all cases of bankruptcy were brought under judicial supervision, and under the control of trustees appointed by the creditors, there was some inducement to creditors to attend and watch the proceedings, because, in a substantial proportion of the cases, they would derive some benefit from the time they devoted to the administration of the estate. The system of liquidation by arrangement, as distinct from bankruptcy, was materially different from the Scotch system, and this might go far to account for the want of success that had attended the partial approximation in England to the Scotch system. He desired to make some observations on the subject of the abolition of imprisonment for debt, which had been referred to by Mr. Morison. Mr. Morison indicated an opinion unfavourable to that abolition, and suggested that the Act of last session was hastily passed. He thought he might say for the Legislature in this matter that if they were slow to consider they were prompt to execute. He did not know of any recent measure of law reform which had received more careful consideration from the House of Commons than the Scotch Bankruptcy Act of last session. It was referred, at the suggestion of the Government, to a select committee of twenty members, including all the Scotch members who were specially interested in commercial and legal questions, and also several English lawyers. The committee reported a voluminous body of evidence, embracing the opinions of representa-

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tives from the principal commercial associations, magistrates, governors of prisons, and other persons likely to have good reason to have formed sound opinions as to the expediency of abolishing imprisonment for debt. The result of that evidence, which he had occasion to read, showed an almost overwhelming opinion in favour of abolishing the antiquated process of imprisonment for debt. This, however, was not done without some safeguard to creditors, because, while imprisonment for debt and obligation was abolished, the Act was accompanied by a series of very stringent clauses enabling the public prosecutor to deal with fraudulent bankruptcy; and amongst them a provision, which had been much desiderated by commercial men, making it an offence that any bankrupt should not have kept such books as were necessary, in the ordinary course of business, to exhibit the true state of his affairs. They had also in that Act to some extent anticipated the objection of Mr. Campbell by the extension of the process of *cessio bonorum*, so as to make it a system of bankruptcy for small debtors. The proceedings, which were formerly instituted only by the debtor himself, might now be instituted either by the debtor or the creditor, and the estate might be wound up on certain conditions, one of which was the contribution by the bankrupt of a sum out of his future earnings in satisfaction of his debts. He trusted that the discussion they had had might clear the minds of some lawyers present who were interested in the question as to the causes of the different results obtained in the two countries; and Scotchmen would be glad if they could do anything towards the improvement of the Bankruptcy Law, which was so much desired on the other side of the Tweed.

MISCELLANEOUS.

A Paper on 'Leading-String Legislation' was read by Mr. GILBERT W. CHILD, who said that the existence in the statute-book of laws which are habitually allowed to lie dormant or habitually evaded tended to impair the respect in which law is held.

Recent legislation has supplied many laws which are in this condition, chiefly because it has attempted, as shown in Mr. Herbert Spencer's essay on over-legislation, to do too much, and to protect the people not only against wrong at the hands of others, but also against the consequences of their own conduct.

Nevertheless, Mr. Spencer's theory carries the idea of the duty of non-intervention on the part of the Government too far, and would lead, if fairly carried out, to the wholesale extinction of the poorest and feeblest classes. What is required is a mean between paternal government and *laissez-faire* government; but it is safer to incline to the latter rather than

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the former, whereas at the present time Parliament is much too greatly inclined to the former.

The author adduced various instances of this tendency in Acts which are inoperative, either because no means exist for working them, or because they would outrage public feeling if they were worked.

The tendency to this excessive interference is rather on the increase than otherwise. Although we may not be able to put a stop to this tendency, there are certain aims which those who labour for the amendment of the law should set before them, viz.:—

1. That no legislation can be justified when it is felt to be impossible to enforce the law when enacted.

2. That permissive legislation should be rigidly confined to its proper sphere, *i.e.*, to cases in which the interests of those to whom the permission to act is granted are engaged on the side of the proposed law (as when permission to purchase land which may or may not be required is accorded to a railway company), and not extended to those in which those interests are strongly enlisted against, as is the case with most of the permissive powers granted to local sanitary authorities.

By the adoption of these two principles, together with the more general one that in any doubtful case it is better to err on the side of non-interference than on that of over-legislation, much time would be saved in Parliament, and we should be spared a large number of the dormant or impracticable laws which now encumber the statute-book and tend to bring all law into disrepute.

Mr. MACFIE also read a Paper on 'The Manner in which Parliament Conducts its Legislative Business,' containing the suggestion, for which he by no means claimed the merit of novelty, that bills should be taken up in any (after) session at the point to which they had already advanced in the previous session. He contended that by this simple and natural change the time of both Houses would be economised, and could be turned to better account; that in the earlier part of each session, when the House of Lords has in general too little work on its hands, that portion of the Legislature—which, indeed, distinguishes itself for its aptitude in discharging revision work—would find highly useful employment; that at the end of the session the present pressure, which leads to the dropping of many good measures, commonly called 'the massacre of the innocents,' and also to imperfection in the measures that are actually passed, would be happily redressed, and that more

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time would be obtained for correspondence by members with their constituents in regard to bills which concern them. The paper expressed an opinion in favour of a change in the constitution of the House of Lords. At present, all English and British peers have seats. Very few, however, attend the sittings of the House. Consequently, business of the utmost importance is commonly done with a small number only present, and therefore unsatisfactorily. To remedy this, and to give more vigour to the Upper House, whose place in the constitution the paper regarded as very important, especially since democracy is so enfranchised within the Lower House, a proposition was submitted that the elective principle should be introduced, all peers being eligible either for life or for each Parliament, and the electors to be all persons whose names are on the parliamentary roll as owners of real estate valued at not less than 20*l.*, 50*l.*, or, if thought better, 100*l.* a year. By this means the nobility would become more desirous of being one with the people. They would take more interest in the various questions of the day; they would be more disposed to live on their estates; and they would strive to merit, by the regularity of attendance at their posts, the favour of the constituencies. In fact, a new link connecting the nobility with the property of the country would be formed, and a valuable power acquired by an approach to solidarity of aims. It was suggested that only by some such reform can the House of Lords be kept from losing its weight, which it is likely to do through the unfortunate readiness of every Government and party in the State to create new peerages for political purposes. There is another and by no means unimportant effect to be expected. It will remove a grievous anomaly in the present distribution of power within the House of Lords. The present system has no local or provincial quality. If every county, according to its population or revenues, returned one, two, or three, or four peers to represent it, the advantage and equity of the change would be great. The paper likewise recommended there should be no restriction on the eligibility of Scotch and other peers to the Commons' House. If the people in any district think that any noble whom they know should be elected, let them do so, and by that means elevate the social position of the Lower House, and prepare better legislators for the Upper.

Mr. Macfie's paper concluded with a suggestion that the *Gazettes*, and other publications of the Government, should be turned to account for advertising, and the Post Office turned to account for distributing Blue-books, the valuable character

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of many of which was extolled; and recommended that some means should be taken for having public libraries and such-like institutions supplied.

It would be well if a high-class lawyer of the rank of judge revised all bills before they receive the royal assent, in order to ensure their being more perfect in language and clearness.

Mr. W. S. DAGLISH, Tynemouth, read a short Paper in support of the 'Establishment of Courts of First Instance.' He traced, at the outset, the establishment of local courts in England, commencing with the early 40*s.* courts, and following them from 1846, when a jurisdiction of 20*l.* was given, to 1850, when it was extended to 20*l.*, and to 1865, when equity jurisdiction and other enlarged powers were conferred. He pointed out that each Government in succession threw all new legal work upon the local courts, but granted no increased remuneration or increased staff; and that the local judges were overworked and not sufficiently paid. The most recent addition to the labours of the local courts was the Rivers Pollution Act, 1876, by which a local judge might make any order or inflict a penalty of 50*l.* a day. Of 2,314 cases tried in the High Court of Justice, 874 were remitted to the county courts, which thus did 30 per cent. of the work. He strongly approved of the Supreme Court of Judicature District Courts Bill, introduced last session by Mr. Cowen, whereby a local court of first instance would be established, with the same jurisdiction as the High Court, of which it would be a branch, with resident judges who would rank next to the judges of the High Courts, and with competent remuneration and sufficient staff. He referred to the admirable manner in which the county courts had performed their work, and suggested that, with increased powers, they might take up various sanitary measures at present settled in Parliament or by the Queen's Bench. A new local court of first instance should be established, with competent and well-paid judges, and devised in every way so that it would satisfy all demands on local justice cheaply, promptly, and, as far as possible, finally.

Mr. ARCHIBALD YOUNG, Advocate, Commissioner of Scotch Salmon Fisheries, contributed a paper on 'Scotch Salmon Fishery Legislation: its Defects and their Remedies.'[1] The writer, in drawing attention to the antiquity and extent of salmon fishery legislation in Scotland, more than six centuries having elapsed between the first statute on the subject and

[1] This Paper has been published in full by the author.

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the last comprehensive measure, the Act of 1868, said that with the multiplicity of the Acts still in force it was almost impossible to know what was legal and what illegal, what to do and what to avoid. The mass of legislation at present encumbering the subject should be repealed, and one comprehensive statute enacted, embodying, as shortly and clearly as possible, the provisions that experience has proved to be most essential to the protection and development of the Scotch salmon fisheries. The author then proceeded to point out certain defects of the Salmon Fishery Acts of 1862 and 1868 with regard to fixed engines, estuary lines, amalgamation and division of fishery districts, construction and regulation of district boards, use of cleek in early part of open season, weekly close time, want of close time for trout and char, regulation of sweep nets, and prevention of obstructions to pollutions. He condemned as useless the pollution clauses in the Acts of 1862 and 1868, and in the Tweed Fisheries Act of 1857, and quoted from the fifth report of the River Pollution Commissioners to show that in every case of manufacturing pollution remedies exist and are available without great cost to the manufacturer. He suggested that the simplest and most appropriate remedy for pollution would be to insert a clause in any future Salmon Fisheries Act, giving to every district board within its own district, and to the Tweed Commissioners within the limits of the River Tweed, the same powers of prosecution for the abatement of pollution in rivers and waters as are at present competent to riparian owners. He urged the great importance of empowering the Scotch Commissioners to make annual inspections and reports, as the Salmon Fishery Inspectors do in England and Ireland, and as is done in Norway, Canada, the United States, the German Empire, and in many other countries, by officials appointed for the purpose. This is specially required, owing to the remoteness of many of the Scotch fishery districts, and from the fact that there are no district boards in three-fourths of the Scotch fishery districts, so that, in the absence of official inspection and of local authority to watch the fisheries, the provisions of the Salmon Fishery Act are in many places systematically neglected or infringed with perfect impunity.

Mr. Macfie, who contributed a Paper on the 'Tax on Charitable Legacies,' adverted to the injurious operation of the burden. It prevents persons from bequeathing as much for beneficent purposes as is desirable. A 10 per cent. 'blackmail' levied on destinations, which it would be good policy to multiply and augment, is not in accord with expediency,

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nor, having due regard to its amount, with equity. To show its injurious operation, one instance was adduced—the amount exacted by the tax from such a useful institution as the Royal Infirmary of Edinburgh. *Its* income was last year, which may not be an exceptional one by any means, directly and indirectly affected to the extent of about 1,820*l.* The writer asked why should this operation of the law, which he held was unintentional, remain uncorrected? Three objections to the repeal of the legacy duty, so far as charitable benefactions go, were presumed. These were answered, and a suggestion was thrown out, that at the least an Act should be passed to enable the Chancellor of the Exchequer, or some department of the Government, to return the duty, or exempt from it, in all cases where a good case is made out, especially if the nearest heir or heirs concur in soliciting the benefit to the public.

Mr. MACFIE also contributed a Paper on 'Colonies and Emigration.' It consisted of three parts. In the *first* he expressed fear that in consequence of the growth of foreign competition the future enlargement of the volume of British trade would not be commensurate with the growth of the population. In connection with this subject he drew an unfavourable picture of our treaty with France. He held that, however warrantable was its original aim, the hopes entertained from it have been falsified. He reprobated making any treaty which cannot at any time be terminated on short notice, and consequently fetters finance and prevents imposing, if found expedient, an export duty on coal. The Paper suggested a committee to argue out in a succession of papers to be written by advocates of (so-called) *free trade in manufactures,* not articles of food, and to be answered by sceptics as to its advantage and success; and insisted that all matters affecting trade should hereafter be treated as apart from the principles and range of party politics. Whether these fears and doubts as to our trade prospects are right or wrong, for the surplus population employment should be sought within the British Empire. This led, as the *second* point, to a recommendation that there should be a commission appointed to report early upon the best means for planting that surplus on the unoccupied lands within the Colonies. He estimated every full-grown man who is allowed to emigrate to the United States as a wasteful gift whose pecuniary value could not be stated at less than 500*l.* This led to the *third* point, the policy of uniting the Empire, which requires to be done if we would not

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see the Empire become a shadow and cease to be a great Power beneficial to mankind. Why not institute a council—call it Imperial or Supreme—to which shall be committed exclusive control of all matters that are Imperial? Eliminating these from the cognisance or direct control of the British Parliament, the latter would do its work better, but it would still exert much the same power as at present, even in the sphere which would not be directly within its province. Such a council, if representative, would be more easily established, and would work with less friction and more efficiency than a a new empire-wide Parliament. The mother country and the several groups of colonies would be represented in it by delegates chosen on whatever principle and for whatever period they severally think fit. The whole number of members of council should be proportionate to population, but with a descending scale—that is, a colony of, say, 4,000,000 should not be represented by four times as many as a colony containing only 1,000,000. The British Parliament would naturally appoint the British Cabinet *in cumulo* as its representatives. Canada might send four members, Australia two or three, our African possessions one; other parts of the Empire two. If India were included, its share, selected on some plan consistent with its being British and loyal, might be six or eight. The council should be entitled to conduct its business by a committee of its own members which should meet at least once a month. Ability to meet at short notice and to hold its sessions in secret give superiority to the principle of governing by council. A supreme Parliament, indeed, could only govern through a committee of its own that would under another name be a council. Like the representation, the contributions in money and men which the council would be entitled to levy would be proportionate, but, with respect to them, proportionate to population or resources. Each group should be free to raise its contributions in its own way and to withdraw its representative by telegraph at any moment.

A Paper 'On the Codification of Mercantile Law' was contributed by Mr. JOHN KIRKPATRICK, M.A., LL.B., Advocate.[1] The subject of this Paper is one of great social importance, in which a large section of the public is deeply interested. The law of England, he said, is cumbrous, unscientific, chaotic; that of Scotland, though simpler and more intelligible, is also susceptible of improvement. Both systems should be digested,

[1] Published in full in the *Journal of Jurisprudence* (Edinburgh) for December 1880.

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amended, and ultimately amalgamated in the form of a code, the first and easiest step towards which would be the formation of a mercantile code for the United Kingdom. The proposal is not a new one, but is well worthy of reconsideration. Of about fifty-two recommendations made by the Royal Commissioners appointed in 1853 to consider the state of our mercantile law, twenty-two only were embodied in the somewhat unsatisfactory Mercantile Law Amendment Acts of 1856. These Acts, together with the recommendations which have been disregarded, might usefully and without serious difficulty be fused into a single code.

Among the differences between English and Scotch law which would have to be removed the following are the most important:—

1. In the law of sale the provision of the English Statute of Frauds, that contracts of sale must be in writing, if for a price exceeding 10*l.*, ought to be repealed, as injurious to commerce, and the Scotch law, which requires no such formality, to be substituted for it; but the English rule, that a payment or a discharge may be proved by parol, is preferable to the Scotch, that it can be proved by the creditor's writ or oath only. In the case of sales by auction the law in both countries is unsatisfactory, but the objections to it might be obviated by allowing each seller to have a single bid. Then, with regard to the Scotch doctrine, that no property can pass without delivery, the writer pointed out that it was objectionable *in re mercatoriâ*, but beneficial in other cases.

2. With regard to the capacity of minors to trade, the Scotch termination of infancy at fourteen seems preferable to its English duration till twenty-one; but instead of adhering to any arbitrary rigid line, it would, perhaps, be better to hold everyone *de facto* engaged in trade liable to fulfil his obligations.

3. In the law relating to bills the Scotch mode of enforcing payment by summary diligence should be substituted for the tedious and uncertain English remedy of an ordinary action; but the English law, which admits every kind of legal evidence of the discharge of a bill, is more equitable than the Scotch requirement of proof by the holder's writ or oath.

4. The Scotch law of partnership, which regards every private firm as a distinct jural *persona*, obviates many difficulties connected with this branch of the law in England; while the English law is more equitable in its mode of executing judgment against partners. The establishment of public registers of partnerships is recommended.

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5. There should, in all mercantile transactions, be a uniform period of limitation or prescription (say six years), after which rights enforcible within that period should be declared legally extinct, without, however, debarring an aggrieved party from appealing thereafter to the conscience of his adversary.

That the proposed reform is practicable is proved by our own Indian codes and those of many other nations; that it would be an immense boon to the community, facilitating business, and preventing much useless and costly litigation, is the opinion of the most eminent lawyers both at home and abroad.

Baron VON HOLTZENDORFF offered a few supplementary remarks on the subject of Codification, treated with so much ability by the Lord Advocate in his opening address. Germany has achieved within the last thirty years a considerable work of codification, having obtained under the old *Bund* a uniform law of exchange and commerce; and under the New Empire the codes of criminal law, of criminal procedure, of civil procedure, of bankruptcy, and of judicial organisation. This work will be completed by a code of civil law, now in preparation. Codification cannot be well done by practitioners alone, acting, as they do, under the consideration of case-law, nor by legal philosophers alone, unacquainted with the requirements of business. One essential condition, however, is the existence of a good and thoroughgoing system of legal teaching, whereby the foundation is to be gained for a common understanding of legal maxims and principles stretching over the whole area of jurisprudence. Without her well-developed system of university law-teaching, Germany could not have attained her codification, at least, and certainly not within so short a time.

The speaker went on to explain the principal traits exhibited by the German Law Faculties. The usual way in which instruction is offered to students is by so-called private (and paid for) instruction, to be given either in six or eight *semester* terms; the winter *semester* (from November to March) covering about twenty weeks, the summer *semester* being somewhat shorter, and extending from the end of April to the beginning of August.

The subject-matters of teaching are the following:—The history of Roman law (four hours weekly for a *semester* of from sixteen to twenty weeks, comprising accordingly sixty-four to eighty hours); the institutes of Roman law (five to six hours weekly); the Pandects, including the Roman law of inherit-

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ance (eighteen hours); the history of German law (four hours); the system of German common and feudal law (six hours); commercial, maritime, and exchange law (four hours); ecclesiastical law (four hours); the law of civil procedure and pleading (six hours); criminal law (five to eight hours); criminal procedure and pleading (four to five hours); general politics, or *Allgemeines Stuatsrecht* (four hours); constitutional law (four to five hours); international law (three to five hours); philosophy of law (four hours); encyclopædia of law, or general introduction into the study of law (three hours); political economy (four hours); financial science (four hours); the civil law of the single German States, such as Prussian, Bavarian, &c., law (four hours).

A student may take, according to his own choice, there being no prescribed method for arranging the succession of the different branches of jurisprudence, three or four lectures in each *semester*. He may, moreover, select some other lectures besides the above-mentioned ones, or leave out several lectures of minor importance. As a rule, he must devote three or four hours daily in each *semester* to attending his lectures.

As a rule, however, adopted by a great majority of German students, the study of Roman law, of the history of Roman and German law, of philosophy, and also of political economy, is referred to first year of academical study, the second year being devoted to the study of German law, criminal law and pleading, ecclesiastical and international law; the study of constitutional law and some related matters remaining for the last *semesters*.

The length of time to be allotted to juridical study is not invariably the same at the different German universities, some regulations prescribing six *semesters* (as in Prussia), some others eight (as in Bavaria). At the end of his triennial academical career the student becomes a candidate for his *first* examination of a merely theoretical character. After having successfully passed through it, the candidate is allowed to enter the professional practice as an assistant unpaid member of the civil service. He has to attend the sittings of the courts, to draw up documentary evidence in hearing witnesses, to write down minutes of proceedings, to plead under the superintendence of barristers and public prosecutors, to assist in the work of conveyancing, to officiate as a clerk. In this way he must become acquainted with the whole compass of legal practice in all its bearings and applications. To enable the junior member of the civil service to arrive at this end, an additional period

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of three or four years' training is prescribed by the German regulations. Their ability for *practical* service must be testified by a second examination, commonly called the *State examination* (*Staatsexamen*).

After his approbation the candidate is entitled to apply for his nomination as a junior judge (assessor), or as officer in the administrative branch, or to become a member of the bar.

As the case may be, seven or eight years of theoretical and practical law study must have elapsed in Germany before professional life becomes remunerative.

As to the methods of universitarian teaching, professional instruction may be considered under *four* heads. In Germany lectures delivered in the law faculties are treating their subject-matter—

1. *Dogmatically*, showing the existing status of law, and clearing up the controversial parts of legislation.

2. *Historically*, applying the historian's test to the explanation of the gradual development through which both the Roman and German law systems have been passing.

3. *Philosophically*, explaining the general ideas of justice, legislation, ethics, and politics.

4. *Politically*, inquiring into the practical value and the actual working of law, according to a standard of usefulness and the rules of comparative research.

The end, therefore, aimed at in Germany is to offer a wide and general education to the law student, by combining jurisprudence with political science, and by strictly separating theoretical study, referred to a preliminary stage, from practical training, referred to a succeeding period.

There may be some minor defects in the German system of law teaching, and it is not to be pretended that its imitation might turn out well everywhere. But, at all events, the German law faculties have furnished that staff of able and experienced men who were well prepared to accomplish the difficult work of codification.

A Paper 'On the Increase of Divorce in Scotland,' was read by Mr. JOHN P. COLDSTREAM, W.S., Edinburgh. Mr. Coldstream said that the large number of cases of divorce, and their increase during the last few years, both in England and Scotland, had of late been the subject of much comment. A return of such cases for the last ten years, so far as Scotland was concerned, had lately been made by the officials of court for the Home Office, showing that during the

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latter half of the period there had been an increase of 24 cases per annum—the average for the first half being 35 cases per annum, and for the latter 59.

The return is as follows, with the population added:—

Year	Population	No. of Marriages		No. of Decrees	
1870	3,336,707	23,854		42	
1871	3,367,922	24,012		26	
1872	3,399,226	25,641		33	
1873	3,430,923	26,748		28	
1874	3,462,916	26,390		48	
			126,652		177
1875	3,495,214	25,974		43	
1876	3,527,811	26,563		68	
1877	3,560,715	25,790		64	
1878	3,593,929	24,333		65	
1879	3,627,453	23,518		55	
			126,178		295
		252,830		472	

The increase was still being maintained in the decade beginning with 1880, the number of cases for this period to the end of July this year being 63, 43 of which were before one judge.

The grounds upon which a spouse could obtain divorce in Scotland were: (1) Adultery of either husband or wife; and (2) the wilful and malicious desertion of either for the space of four years.

It was not necessary in either case to allege cruelty. There was no separate court in Scotland for matrimonial causes. The action was brought before one judge of the Supreme Court, who tried it without a jury (although it was competent to have a jury). From his decision there was an appeal to the Supreme Court of Appeal in Scotland, where it was heard before four judges. If there was no appeal, such an action could be raised, and decree obtained within seven weeks. The expenses of an undefended case were as low as 20*l.*, and as high as 213*l.*, in actions examined by the author. A common figure was between 30*l.* and 50*l.* There was no Queen's Proctor to intervene. It was competent, however, for the Lord Advocate to appear in such cases in the public interest. To prevent collusion, the pursuer must before probation emit the oath of calumny, in which he denies that there has been any concert or agreement between him and the defender, or others on their behalf, with the view of obtaining a divorce. All the facts must be proved, whether defended or not. The

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co-defender could be mulcted in expenses. The parties to the cause could be witnesses.

The increase could not be attributable to increase of population, as in 1870 the population of Scotland was stated at 3,336,707, and in 1879 it was presumed to be 3,627,453. The average number of cases of divorce from 1820, when the population was 2,070,523, to 1829, was 21 per annum, and from 1860, when the population was 3,054,738, to 1869 it was 29 per annum. Divorce in Scotland had, therefore, nearly trebled in fifty years, while the population of Scotland only doubles itself in seventy years.[1]

To obtain an explanation of the increase of divorces, which had been, and still was, going on, Mr. Coldstream said that, with permission of the Home Office, accorded through the Lord Advocate, he had examined the Register of Marriages, and the proceedings in 110 cases out of the 472 contained in the foregoing table, and had specially addressed himself to the following particulars, as likely to afford some solution of the question—viz.: (1) The profession or trade of the parties. (2) Their ages at marriage and divorce. (3) The disparity of age of the parties. (4) The duration of the marriage tie. (5) The cause of divorce—adultery or desertion. (6) Husband or wife pursuer. (7) The condition of the parties—bachelor or widower, spinster or widow. (8) The habits of the parties, specially the defender. (9) Whether there was issue of the marriage. (10) Whether the action was defended or not, and whether there was a counter action. (11) Whether there was anything in the mode of proof in the latter period, as compared with the former, which facilitated the operation.

[1] For the sake of comparison the following table may be interesting:—

Population of England and Wales, and Petitions filed for Dissolution of Marriage in England and Wales from 1869 *to* 1878.

Year	Population	No. of Petitions Filed	
1869	22,223,299	265	
1870	22,501,316	264	
1871	22,782,812	293	
1872	23,067,835	303	
1873	23,356,414	336	
			1,466
1874	23,648,609	379	
1875	23,944,459	362	
1876	24,244,010	400	
1877	24,547,309	423	
1878	24,854,397	516	
			2,080
Total for 10 years		3,546	
Increase in 5 years			614

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As the increase had been in the period since the beginning of 1874, he had taken 55 cases before that time, and 55 cases since for the purpose of comparison.

The increase of cases for the periods thus taken was at the rate of 25 per annum.

As to the trade or profession of the parties, it was found that nearly all classes of the community—from the man of noble birth to the humblest subject—took advantage of the Divorce Court. In the cases examined, ministers of the Gospel and medical practitioners were conspicuous by their absence, while the wives of seafaring men were very frequently there as defenders, owing to the distant and protracted voyages of their husbands.

In the first period, 9 cases were of parties in a superior walk of life, and 46 of a humble sphere; in the second there were 8 of the former and 47 of the latter, so that the periods were nearly the same as to the profession or trade of parties.

The husband was defender in 54 cases, and the wife in 56. Before 1874, the husband was defender in 30 cases, and the wife in 25; after that date she was defender in 31, and the husband in 24. There was therefore a disparity, the reason for which the author assigned, in a later part of his paper, to the increasing drinking habits of women.

As to the ground of divorce, out of the 110 cases examined, 67 were for adultery and 43 for desertion. Of those for desertion, 22 were before 1874 and 21 since; while for adultery, 33 were before 1874 and 34 since. The causes were, therefore, nearly alike in both periods.

As to the ages of the parties at marriage, it had only been possible to obtain those of 81 husbands and 80 wives. Sixty of the wives had been married under 25 years of age, and 41 husbands under that age. In both periods the age of parties was very much the same, and it agreed with the last Report of the Registrar-General, who, in the case both of men and women, gave the greatest number of marriages as taking place under the age of 25.

The periods also agreed very much in regard to the age of the parties at divorce. Women were divorced in greatest numbers between 25 and 35, and men between 30 and 40. In three cases, when the wife was plaintiff she was over 45 years of age. In only one case was she defender when beyond that age. The husband was plaintiff in five cases when he was beyond that age, and defender in the same number.

As to the disparity of age between the parties, there was no case where the wife was an old woman, and the husband a very young man.

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Out of the 80 cases where the information could be had there were only 8 where the wife was older than the husband —2 in the first period and 6 in the second, 5 years being the maximum difference. In 6 of these cases the wife was plaintiff. In one case the husband was 31 years older than the wife, but in both periods the difference—5 years where he was older—is the most common.

As to there being issue of marriage, the investigation gave the following results:—

Before 1874:

Issue.		No Issue.	
Husband Pursuer.	Wife Pursuer.	Husband Pursuer.	Wife Pursuer.
14	20	9	7
34		16	

After 1874:

Issue.		No Issue.	
Husband Pursuer.	Wife Pursuer.	Husband Pursuer.	Wife Pursuer.
17	12	7	8
29		15	

In the second period the matter was not stated in 11 cases, and in the first in 5.

Out of the 80 cases where the information could be obtained, the husband was a bachelor except in 5, and the wife a spinster except in 7. Before 1874, the husband was a widower in 1 case, and in 4 cases in the later period. The wife was a widow in 2 cases before 1874, and in 5 in the later period. The husband was plaintiff in 4 out of the 5 cases in which he was a widower. He was plaintiff in 4 and defender in 3 in which the wife was a widow. There was, therefore, not much difference between the two periods on this head.

Out of the 80 cases, where it was possible to obtain the information, the wife could not write in 3, while the husband could sign his name in all. Only one of the 81 cases where the information could be had was an irregular marriage—*i.e.*, not one *in facie ecclesiæ*, and was one by declaration before witnesses. Such cases are growing in popularity in Scotland. In 1868, their proportion to the number of total marriages in Scotland was 0·27; in 1877, it was 1·38, there having during the period been an annual increase.

Ninety-nine of the 110 cases were in absence of the defender; 11 were contested cases—7 before 1874, and 4 thereafter. In 10 cases there were 1 or more co-defenders—5 before 1874, and 5 thereafter.

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In none of the cases was there indication of collusion, against which the oath of calumny is a preventive measure.

The keeping of lodgers—sometimes supposed to be a contributing cause to divorce—operated as such in 2 cases examined; 1 before 1874, and 1 thereafter.

The inquiry hitherto had been nearly negative in its results, and was only important in so far as it cleared away preconceived ideas as to contributing causes to divorce. Two questions of those proposed for inquiry from the proceedings remained, (1) the habits of the parties, and (2) the increased facilities of proof.

As to the first, out of 110 cases the defender in 39, or about one-third of the whole, was stated to be of dissipated, drunken, or irregular habits. In the 55 cases before 1874, there were 14, or about a quarter of these, where the defender was so described. After 1874, there are 25 cases, or nearly a half, where the defender was of such habits. To put the matter in another light, the number which the average taken gave would give a total of 32 cases out of the 129 cases before 1874, and of 155 cases out of the 343 after that date, where the defendant was of dissipated, drunken, or irregular habits.

In a comparison of the two periods, it was here for the first time that any distinctive element could be found to account for the increase.

In the period before 1874, the defender was the husband, and of such habits in 11 out of the 14 cases, in 5 of which the ground was adultery and in 6 desertion. In the latter period the husband was defender, and of such habits in 9—4 for adultery and 5 for desertion—out of the 25 cases; and the wife in the remaining 16, 14 of which were for adultery and 2 for desertion. The wife in the latter period had lost her majority of 8 in her favour, and had a majority of 7 against her.

The increasing dissipation of women then seemed to increase divorce likewise.

Depression of trade might account for the increase to some extent, by throwing men and women together in unoccupied times with sufficient opportunity for the commission of crime; but, on the other hand, it should have acted as a factor the other way, as depriving parties of the means to pay for a 'luxury,' which, in the words of an eminent consistorial lawyer, divorce was said to be.

The increase was partly due also to the facilities afforded to suitors by the Act of 1874 (37 and 38 Vic., cap. 64), which enabled the parties themselves to be witnesses in the cause. In 49 out of the 55 cases examined since that date the plaintiff

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was a witness, and the defender in 11. It was rather a curious circumstance that the increase in cases was simultaneous with the passing of that Act, as a comparison of the figures previously given would show.

One other contributing cause to the increase suggested itself to the author, and that was the ready and wide circulation of the reports of such cases by a cheap press, thus rendering the public mind accustomed to and prepared for what should be regarded as a scandal and disgrace in a family's history.

There were trifling causes alleged in some of the cases, such as when a wife left a husband wedded only a few months before, 'because she did not like the situation;' but on the whole there were good grounds for the action.

The result of the inquiry went to show that increased drunkenness, specially among women, had increased divorce in Scotland, while the Legislature had also contributed to the increase, by the passing of the Act which enabled parties to be witnesses in the cause.

As a practical result of the consideration of the subject by the Congress, the author hoped that the Government might be moved to have such statistics as were given in the Paper regularly tabulated from the cases in court, so as to enable it to deal with a matter which, progressing as it was, would tend to sap the foundations of a pure social system.

Mr. James Solly, of Tipton, contributed the following short Paper on 'Further Amendment of the Divorce Act of 20 and 21 Vict., c. 85':—I beg to invite attention to the clause in the Amendment of the Divorce Act of 20 and 21 Vict., c. 85, limiting the protection which can be given by justices under this Act to a wife against her husband and his creditors to cases in which the husband has deserted his wife. It appears to me that there are cases in which, though the husband has not deserted her, it may be desirable to give power to them, on the application of the wife, to summon the husband to show cause why they should not grant to her an order of protection against him and his creditors (except for goods supplied for their joint use), and at their discretion to grant or withhold such order, which decision should be subject to an appeal to the Court of Quarter Sessions. A case (one of many similar ones) came under my notice lately which appears to me to illustrate the hardship in some instances of the law by which marriage gives to the husband absolute property in the goods or assets of his wife.

A widow, living with her unmarried son in a house which

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she rented, furnished with goods of her own, part of which had belonged to her deceased husband, and who was supported partly by her own labour and partly by her before-mentioned son (a married son paying the rent of the house), married again. Her second husband went to America, whence he sent her but very little money, and, after two years, returned to live with her, and he was sustained partly by her labour, spending the little that he occasionally earned on himself, chiefly in drink, frequently being intoxicated, beating and ill-using his wife (generally in the absence of her son), and threatening to sell off all the goods in the house, which threats deterred her from summoning him before the magistrates to be bound over and find sureties to keep the peace. When she came to me I was obliged to tell her, as I have told many others, that the magistrates could do nothing for her.

It appears to me that the additional power to justices which I advocate is not greater than what is left to their discretion in other cases by summary jurisdiction. I think that the case which I mention shows a gap or omission in the protection which the law now affords to the property of married women, especially in the operative classes, who cannot afford to have marriage settlements and trust deeds.

Mr. Charles Scott, Advocate, in a Paper entitled 'Whither is our Marriage System Drifting?' gave a sketch of the changes which had been and were proposed to be introduced into the laws affecting the property of married women. It commenced by referring to the apparent strength and popularity of the old system, and pointed out that, notwithstanding this, it seemed to be passing away almost without resistance. It then went on to show that there was no occasion for feeling any alarm at the threatened changes in the marriage system, and illustrated this by describing the numerous different systems of marriage, which had all more or less served the main purposes of the institution. The principle on which the marriage system of Scotland was constructed was then described. The whole movable property of the wife and the rents and profits of her heritable property vested in the husband, who was her curator, and who was also entitled to reap the whole profits of any calling she might follow. On the other hand, she was *præposita negotiis domesticis*, and had the entire management of the children and the household. This system allowed, however, of the squandering by the husband of the means which he had obtained through his wife, and this evil became much aggravated by the increase of commerce in Scotland, and the ruin

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brought upon families by mercantile speculations. These cases of hardship, which became more frequent, roused public feeling against the law under which they were possible; and, in consequence of the higher education and progressing culture of women, this feeling was taken up by them, and directed towards an alteration of the law. Attempts were made by its defenders to correct its defects by securing to wives a right to obtain a provision out of properties falling to them after marriage, and by protecting their earnings in certain cases. These reforms, however, only served to increase the wish for further changes, and in the year 1877 a blow was suddenly struck at the keystone of the entire system—the belief in the obligation of the wife to superintend the children and the household. She obtained an unconditional right to all the proceeds of any calling she might follow, without any obligation to maintain either her children or her husband, if he should become infirm. The woman was thus tempted by the law to desert her household duties for private profit, and might not only do so without the consent of her husband, but would logically be entitled to compensation if she left her business to attend his sick-bed. This important Act passed almost without notice, and now those who had overlooked it were consoling themselves with the belief that women would either not be willing or not qualified to avail themselves of it. But this idea was unfounded. There were many collisions in married life which would lead women to set up for themselves, and there was no evidence to show that women were unqualified to do so, or would not become so by natural development. Further, if they did so, no doubt sufficient means could be found for the education of children deserted in this way; and, although their training by the State might in some cases be a loss to them, in other cases it would be a gain, and would probably be a gain in all cases where the mothers were disposed to neglect their offspring for pecuniary profit. In such a case the gains of the mother should be made primarily liable for the extra expense caused to the husband in getting her duties performed by another. It was now proposed in addition to give married women the full property of all moneys coming to them by gift or succession; and in the first draft of the Bill no counter-obligation was imposed upon them. Since then it is proposed to make them liable for their children, but only after the exhaustion of their husbands' means, and to give the husband after their death the same right in their succession that they have in his. This, however, was not enough. The sound method of procedure was to take care that the legislation should be made equal

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between husband and wife, and that both should be equally liable to creditors for the maintenance of the family, and liable in relief *inter se* in proportion to their respective means. It was not, however, to be supposed that innovation could stop here. Women who never had any money or calling of their own, but by attending to their domestic duties contributed largely to their husbands' means, had in equity a joint right in them, and were equally if not more entitled to be protected than other women. They would logically, therefore, obtain a voice with their husbands in the disposal of the common fund; and thus the future marriage relation might come to be a partnership in the funds made since marriage, and an independent trading by each partner in their respective separate means. Whether this system would give more satisfaction to men was a question for the unmarried. It was not unlikely, however, to be distasteful to many men, who would be unwilling to introduce a commercial partner into their homes, and even to many women, who would prefer the curatory of their husband, even with all its risks. There was, therefore, no reason why the present system should be compulsorily extinguished; both might exist together, and a choice be given between the two, as was the case between alternative systems both in ancient Rome and in France at the present day. The Paper then went on to show that, by the inevitable compulsion of circumstances under the new system, in course of time greater facilities for dissolving the marriage tie would have to be provided, as a block in the matrimonial partnership, when no umpire was provided, would become absolutely intolerable, and would require to be solved by the courts either by factory or by divorce.

Mrs. Wolstenholme Elmy read a Paper on 'The Law of England with regard to the Property and Status of Married Women,' in which she described, at considerable length, the provisions of the English marriage law relating to the property of the wife, and also the various amendments and alterations that had been made upon it from time to time since about 1856, when Parliament first attempted to deal with the subject. She condemned the English law as confused and unjust, and, so far as it provided for the property of married women passing over to the husband, she would abolish it entirely, and would secure to the wife her own property and earnings.

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REPRESSION OF CRIME SECTION.

Address

BY

THE RIGHT HON. SIR WALTER CROFTON, C.B.,

CHAIRMAN OF THE REPRESSION OF CRIME SECTION.

AT our meeting at Manchester, last year, I invited attention to the Report of the Royal Commissioners on Penal Servitude, which had then recently been published, and especially to some of the principal suggestions for improvements which were contained in it. The time has now arrived for inquiring as to what has been done consequent on these suggestions, or whether, as is sometimes the case with reports of Commissions and Committees, they have been allowed to be barren of results. As regards this Commission, the latter course would have been extremely unsatisfactory, for it is not upon record that such a searching inquiry, extending over eighteen months, has ever yet been made into prison establishments, and I do not believe that any prison department has ever been subjected to such an ordeal as has the English Convict Prison Board. I say the English Board, because neither the Boards of Ireland nor Scotland, or their prison establishments, were subjected to the same test, but merely, by comparison, to a superficial inquiry. Those conversant with the administration of prisons can alone realise the effect of an investigation conducted as was this Commission—viz., the examination of convicts under punishment, of ex-convicts, and of warders, in addition to those responsible for the administration of this system.

A desire was expressed in Parliament that a Commission

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should be appointed to inquire into the convict system of the country. The Report is a full and complete reply to those who sought the information, and it is to be earnestly desired that it will be referred to before statements are made against those whose responsible and irksome duty it is to administer the system.

In order to obtain accurate information as to the results which have been obtained by the suggestions of the Commission, the Repression of Crime Department of this Association has addressed inquiries to the Home Secretary, the Chief Secretary for Ireland, and the Lord Advocate of Scotland, requesting that a return might be furnished showing the alterations which have been already made consequent upon the suggestions. With regard to England we find, amongst other changes of importance, the separation of prisoners not previously convicted from older offenders. But in order to carry this out satisfactorily, it has been necessary, as suggested by the Commissioners, to exclude from the first convictions certain crimes which would show great criminality, such as receivers of stolen goods, those guilty of unnatural crimes, &c. The directors, in their Report just issued, say that in order to follow this classification out with advantage, so as really to check contamination, it is necessary that *each* case should form a subject of investigation and inquiry from the police and others, to whom the prisoner might refer for testimony as to his antecedents. There can be no doubt that, although this course involves much trouble and correspondence, it is far better than assuming that any prisoner, not known to have been before convicted, is comparatively uncorrupted.

The separation of weak-minded convicts from others, and placing them under the care of special officers, has been already carried out, and is a wise and humane arrangement. Many other suggestions made by the Commission have also been enforced, such as:—The restriction of the power of the Governor to inflict repeated punishments of bread and water at short intervals of time; the reduction of the period for which handcuffs might be imposed from seventy-two to twenty-four hours; checks on the use of the straight jacket; improvements in tendering the evidence of convicts at inquests. There are also many reforms which the directors have themselves instituted, as shown in their Annual Reports for 1878 and 1879. One, the importance of which cannot be over-estimated, is a circular issued to the convicts with regard to memorials. A few extracts will suffice to show its tone and spirit:—'Officers will be held strictly responsible for bringing forward the requests

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of prisoners for interviews, and any omission will be severely punished;' 'In order to guard against the *possibility* of a prisoner's application not reaching him in the regular channel, the Governor will, at least once in every week, and the Deputy-Governor also, give to each prisoner an opportunity of personally applying to have an interview with him;' 'A prisoner is further allowed to make a memorial to the Board of Directors, and to petition the Secretary of State.'

A recommendation made by the Royal Commissioners, to which they attach great value, was—That arrangements should be made for the independent and unpaid inspection of convict prisons. This was carried out in January, 1880, by the appointment of several gentlemen, twenty-four in number, distributed over eleven convict establishments and their branches. Instructions were issued at the same time as to their duties. I give extracts, which will suffice to afford information on the subject, viz., 'Your duty will be, from time to time, as you may find expedient, to visit the prison, and to make inquiry as to the state of the prisoners, and discipline and condition of the prison; but to abstain from giving any order, or interfering with the administration of the prison.' 'A book will be kept in the prison, in which you will insert such remarks or recommendations as you may desire to make, and, whenever you consider this course preferable, you will address a report to the Secretary of State, who will immediately pay attention to it.' 'The Directors of Convict Prisons will be ready in every way to co-operate with you. . . . Free access will be given to all the prisoners, and all parts of the prison; and all books will be open to your inspection at all reasonable hours.'

As there are now twenty-four pairs of eyes directed on the English convict establishments, perfectly independent of the Government and the prison officials, it can no longer be asserted with truth that they are withdrawn from the public gaze, and, therefore, liable to abuses.

The return from the Irish Prison Department is not so detailed as that which has been received from England. It has reference merely to the portion of the Commissioners' Report summed up at its conclusion, and does not state what has been done with regard to important suggestions made in the body of the Report. But it is satisfactory to learn that they expect shortly to carry out the separation of convicts without any previous conviction, from habitual offenders; that they are making arrangements for the separation of weak-minded prisoners from others; that they concur with the Commissioners as to the abolition of Spike Island Prison; but as

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the matter is one involving a large expenditure, it is still under the consideration of the Government. It is further stated that other suggestions of the Commission, including 'Unpaid Inspection,' have been referred to the Executive Government. And with regard to the 'Unpaid Inspection' of the Irish Convict Prisons, an official communication has been received from the Irish Government—that they hope to be able to make arrangements for this independent inspection. At the passing of the Irish Prison Estimates, at the end of the parliamentary session, in reply to Sir R. Cross and some of the Irish members, Mr. Forster stated it was his intention to make such appointments,[1] and also to give his consideration to the abolition of Spike Island Prison.

With regard to Scotland, the return is—'That the only recommendation made in the Report of the Commission which called for the consideration of any change in the Scotch convict system, was—that the dietaries in use in the Scotch convict prison should be revised. A medical committee has since inquired into the matter, and reported that they did not consider any change to be necessary.' It must be remembered that there is only one convict prison in Scotland, viz., the prison at Perth for female convicts. The Commissioners did not, I believe, inspect this establishment; but it is quite certain that the principles which they laid down for England, in detail, with regard to memorials, &c., were intended for general application in Scotland and in Ireland. They pointed out that the female convicts in Scotland had not the same privilege extended to them as the convicts in England and Ireland in being sent on licence to refuges before their liberation. I very much regret that this is so, for I remember that at our last meeting in Edinburgh Miss Carpenter—whose memory will ever be dear to this Association—took considerable pains to impress the meeting with the importance of the subject. At that time (1863) the refuge system, which had been found of great value in Ireland from 1856, had not been extended to England. In 1865 this extension took place; and as I am concerned in the management of one of the three refuges established in England, viz., the Carlisle Memorial Refuge at Winchester, through which 1,126 female convicts have passed, I am in a position to affirm the utility of such establishments, which are incentives to good conduct in prison, and better and more natural training schools for free life than any prison could possibly be made. In 1863 several ladies in Edinburgh took an interest in this subject, and it is yet to be hoped that, by the institution of a

[1] I have since heard that these appointments have been made.

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Refuge in Scotland, the disability under which the female convicts in that country undoubtedly suffer will be removed.

Since our last year's meeting we have had to deplore the death of Dr. Wines. We are all aware of the great service to prison reforms rendered by the untiring energy of this gentleman. We know that the International Prison Congress, held in London, in 1872, through his exertions, has been the means of stimulating improvements in prison treatment throughout—to use Dr. Wines' favourite expression—the civilised world.

My attention has for some time past been directed to what is going on in the Italian prisons, under their able and most earnest Director-General, M. Beltrani Scalia, who has frequently favoured us with his presence and his opinions. Several months since, some of our newspapers gave an acount of an experiment being tried in utilising convict labour by its application to draining the marshes near Rome; and stated that the Trappist Brothers, who have one of their convents on the spot, are much satisfied with the moral improvement and industrial work of the convicts. Being desirous of hearing further and more detailed accounts of what had taken place, I recently made application to the Director-General for information. The particulars are as follows:—There are 180 convicts now employed in these marshes, but in the winter the number will be increased to 300. They are now located in a building adjoining the Trappist convent, but they will shortly be located in huts, as the Irish convicts are at Lusk, near Dublin, previous to their liberation. They are selected for their good conduct from the different penitentiaries, at certain periods of their *Travaux-Forcés* sentences. In answer to many questions asked by me, I find that their conduct is good; that their only punishment is '*privation of work*,' and it is found to be sufficient; and this may be gathered from the following statement, viz., that they always hide the first symptoms of fever (which is common to the marshes) for fear that they should be removed from their work. It will be remembered by many in the Section that this doctrine is not new to me, for when I found in the Irish prisons, by close observation, that work might be made a privilege, and its absence a punishment, I utilised the experience, and with the best results. Moreover, it is our duty, if possible, to restore criminals to society with a desire for the labour without which they cannot live honestly. By associating industry with privilege, and its absence with punishment, during the period of detention, you obtain both the desire of the prisoner for work, and his co-operation in performing it, without which its value is but of small account. I

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may add this, that in the female refuge at Winchester, which I have before named, the privation of work, even for three days, induces a desire for industry.

In addition to the labour I have described near Rome, which appears to have an especial interest for the Italian Government, there are other agricultural works at Monte Christo, &c., at which well-conducted convicts are employed towards the end of their sentences. In fact, progressive classification is the ruling principle of the system in Italy; and I fully expect that at the 'International Prison Congress' to be held in Rome, in 1883, some good results will have been attained.

With regard to our own convict system, I have sufficiently shown that in my opinion we are on the right lines; but I do not for one moment imagine that we have arrived at such a state of perfection as to be able 'to rest and be thankful.' There are some difficulties ahead with regard to the employment of convicts. It was given in evidence to the Commission that some of the public works at which convicts are employed are approaching completion, and that in rather more than two years from the present time work will have to be found for 2,500 convicts. It is not very easy to see how this employment can be provided unless some sort of moveable prisons are designed for the purpose, for it requires a public work of great magnitude to warrant the cost of erecting permanent prisons for a large number of convicts.

I now turn from discussing the treatment of criminals in prisons to, if possible, a still more important subject, viz., their treatment on liberation. I need scarcely remind you that at the present time there is a strong impression on the public mind that there are too many sentenced to imprisonment. Sir Richard Cross, the late Home Secretary, has more than once announced in Parliament that, after much consideration, he had arrived at the same conclusion, and, as a testimony to his conviction, passed the Summary Jurisdiction Act in 1879, substituting fines, and their payment by instalments, in many cases for imprisonment. Now, I am quite prepared to hear of difficulties in obtaining these payments, &c. It is certain that Sir R. Cross had well considered these difficulties before introducing his Bill. We know that there are objections made to any new measure. I have vivid recollections of statements made at the meetings of this Association, ridiculing the idea of obtaining parental contributions for children in reformatory and industrial schools. In Ireland, especially, I remember it was considered impossible to obtain

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these contributions; but what are the facts, as evinced by the reports of the inspectors? That 11,507*l.* was recovered in England and Wales during 1878, and in Scotland, from parents and parochial boards, 5,608*l.* during the same period. In Ireland, 1,376*l.* was collected—making a total of 18,491*l.* for the United Kingdom during the year—no trifling sum, considering the large number of orphans, illegitimate and destitute children, and those whose parents are in prison, confined in these institutions.

Very many of us will remember a Paper read at one of our winter meetings in London, five years since, by Sir Rupert Kettle, suggesting fines, their payment by instalments, and police supervision as a substitute for many sentences of imprisonment now passed. I am glad to state that he sends a Paper, with 'Further Suggestions,' &c., which, I feel sure, will be of high value. Since the publication of the former Paper, much has been done to carry out Sir Rupert Kettle's views through the passing of the Summary Jurisdiction Act, 1879. But there remains the recommendation of the substitution of police supervision for imprisonment in many cases; and to this all important measure I must invite your earnest attention, for I feel bound to treat it at considerable length. I remember that I presided at the meeting at which Sir Rupert Kettle read his able Paper, and that I stated that, although there was something inviting in the proposal to substitute police supervision for imprisonment, the beneficial application of the principle must depend on the supervision being made more complete than it was at that time. But five years have passed over our heads since then. Time has done its work, and we are now in a position to give to this matter our most earnest consideration. The Royal Commission, before referred to, entered minutely into the question of police supervision, and especially as affecting London. It was recommended that the supervision should be carried out in combination with benevolent agency, such as Prisoners' Aid Societies; and that the policemen should be specially selected for the purpose of supervision. The Commission instanced the system carried on in Dublin in my time, by the late Mr. Organ co-operating with the police, as the best form of supervision, thereby confirming the opinion of the Commission of 1863, which examined Mr. Organ on the subject.

Understanding that Mr. Howard Vincent, the director of criminal investigation in London, was carrying out great reforms in the supervision department quite in the spirit of the recommendation of the Commission, I called at his office

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recently, and was kindly shown the amended procedure. Within the last few days I have received the following information, which is of great public interest, in reply to queries which I had sent:—

1. There are now 1,245 licence-holders, and supervisees, i.e., those sentenced to police supervision, supervised in the metropolitan district.
2. There are eight officers, *carefully selected for the performance of this duty*, in accordance with the recommendation of the Commission, viz., one chief inspector, one inspector, three sergeants, and three constables.
3. They are in communication with Prisoners' Aid Societies, and especially with the Royal Society in London, for which they made upwards of 300 inquiries between June 1 and September 1, 1880, and which daily sends over a list of benevolent requests as to those under its care.
4. No authenticated complaints have been made by the supervised of having lost their employment through the interference of the police.
5. As the police system in this country is not so centralised as in Ireland, the intercommunication with the county and borough gaols is not at present so complete; but this is capable of improvement.
6. The present system imposes no hardship on those wishing to lead an honest life; so far from it, they are very materially assisted in taking that course. The board of the London Prisoners' Aid Society, of which I am glad to find Mr. Howard Vincent is a member, is consulted prior to any action being taken with the supervised, who have opportunities afforded them of seeing a table of addresses at which they are most likely to find employment.

A register of the supervised is kept for reference, recording the antecedents, employments, &c. The supervising officers are dressed in plain clothes, and exercise the greatest care in verifying the statements of the supervised; and I may add that the officers frequently aid from their own means, very much to their credit, cases of real distress coming under their notice. Now, I ask, what is all this which has been described but evidence of a friendly supervision of the well-intentioned on the part of the police, and of a real co-operation with benovolent agency.

This is well known to be no new subject to me. I have been conversant with it officially, magisterially, and other-

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wise, for the last twenty-five years. Police supervision commenced in Ireland in 1856. In my official report for 1858, I wrote, 'If the prisoner's training has been of the right description it will show itself beyond the prison walls. For our sake, and for his own, we should follow him; his training is incomplete unless we do. We must exercise such a supervision as shall aid him in his good, and restrain him from his evil, intentions. Such a supervision acting detrimentally to the well-intentioned convict would be by the abuse, and not by the use, of an important police duty. It has been proved in this country (Ireland) that such supervision acts beneficially to the community as well as to the well-conducted criminal, and we have yet to learn that the Irish convict has any greater predilection in favour of police and law than other nations.' In subsequent reports, and in pamphlets, I have repeatedly pointed out the beneficial advantages which had been obtained through supervision under well-selected officers, and have urged its extension here and in other countries.

I think I have shown that we are now in a position to consider the proposal for substituting police supervision altogether and in part for many cases in which imprisonment is now given. And with reference to its substitution for a portion of the term of imprisonment, it is well that I should call your attention to a recommendation made by the Committee of 1856 on penal servitude sentences, viz., that with a sentence of seven years' penal servitude, and with others in proportion, the term should be divided into two periods, the first fixed for four years, and the remaining portion shortened by the conduct of the prisoner himself. Had supervision been then established in England, I have no doubt the recommendation would have been adopted. It was tried in Ireland for some time under a well-regulated supervision, and thoroughly succeeded. I cannot but consider the period recommended as far better and more economical than the longer fixed period of detention now in force.

We are to have the advantage of hearing Papers by Sir Rupert Kettle and Mr. Barwick Baker, which cannot fail to be of material aid to us in considering the extension of police supervision as a substitute for many cases of imprisonment. We shall also have special Papers on 'Prisoners' Aid Societies,' and on 'The Changes which are Desirable in Dealing with Juvenile Delinquency,' the latter subject having become of pressing importance by the laudable action which has been taken by Sir William Harcourt in deprecating the too frequent imprisonment of children. His earnest letter to the

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mayor of Manchester foreshadows reforms which will, I feel sure, prove satisfactory to this Association. Admitting that there are difficulties in dealing with the subject, I am not of opinion that they are incapable of solution. Those who remember the objections made to the institution of reformatory and industrial schools will not be dismayed at the prospects in this matter.

I believe that the principal lever on which we must rely, in order to obtain reform, should be the legitimate one of 'parental responsibility,' enforced by stringent procedure in the way of fines, and securities for the future good conduct of the children; and it is reasonable to suppose that the inquiries made, consequent on this course, will of themselves be the means of improving the management of the children. Many cases will, no doubt, require personal correction; and also with juveniles *over twelve years of age*, after strict inquiry, committal to prison, or to some substituted place of strict detention. I name twelve years, for it is the period defined by the Summary Jurisdiction Act, 1879, at which childhood ceases. I am sure many experienced persons will agree with the inspector of reformatory and industrial schools in regretting that children under that age are so constantly found in reformatory schools.

In addition to the procedure which I have mentioned, requiring but a small amount of legislation, it must be remembered that in cases requiring such treatment we have reformatory and industrial schools; and in some localities day industrial schools, which could be utilised at a small cost, and mainly at the expense of the parents. We are to have the pleasure of hearing a Paper by Mr. Mark Whitwell, describing the day industrial school at Bristol; and in listening to this Paper there will be present to the minds of most of us one whose energy in the cause for many years at last succeeded in obtaining its adoption by the Government. Miss Carpenter has, to our great sorrow and our loss, passed away; but her works remain, and, with her great example, should incite us to further efforts in the cause of social reform.

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PRISONERS' AID SOCIETIES.[1]

What is the Position of Prisoners' Aid Societies with Reference to the Prisons Act of 1877, *and how can these Societies be made more Efficient?* By T. L. MURRAY BROWNE.

AFTER the passing of the Prisons Act, 1877, a considerable time elapsed before the position of Prisoners' Aid Societies was at all settled or ascertained. Nor, indeed, can it be said that their position is altogether determined now. Some provisional arrangement has, however, been reached, which I will endeavour to describe.

The old system under which grants were made by visiting justices in favour of particular prisoners is at an end. In place of it, the Government have granted a sum of 4,000*l.* to be applied during the present year towards the augmentation of the funds of Discharged Prisoners' Aid Societies. It is much to be hoped that this sum, which is altogether inadequate to the important object which it is designed to meet, may be increased in future years. In the meanwhile, however, the precise manner in which the grant is to be applied, as well as the conditions to be fulfilled by the recipient society, are stated in the letter of Sir R. A. Cross, and the subsequent explanatory documents, copies of which I append to this paper.

The general effect of the scheme (which is somewhat complex) appears to be as follows:—The total sum (4,000*l.*) will be apportioned among different prisons by the Home Office according to size. It is then left to the society of each prison, with the assistance, and on the recommendation, of the prison staff, to select the prisoners for whom it designs to claim Government money. The funds required for their assistance must be advanced in the first instance by the society, but the amount (if not exceeding 2*l.* per case) will be repaid by the Government, so far as the proportion of the 4,000*l.* allotted to the prison in question will extend. Such repayment, however, will not be made to a greater extent than a sum equal to the total income of the society derived from voluntary sources. In other words, the conditions being fulfilled, the Government

[1] See *Transactions*, 1879, p. 272; 1878, p. 292; 1876, p. 323.

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will double every 1*l.* of subscriptions, &c., which the society can raise, so far as the portion of the 4,000*l.* allotted to the prison in question will extend. It will be seen at once how strong an inducement is thus offered to charitable persons to contribute to the funds of the society. And it will also be observed that each county or district which has no aid society, will lose all benefit derivable from the Government 4,000*l.* (or larger sums to be hereafter allowed), in which it will not be entitled to participate at all.

By the regulations of the Prison Commissioners, a 'progressive stage system' has been introduced into all gaols, under which prisoners, the length of whose sentence exceeds one month, may entitle themselves, as a reward of good conduct in prison, to small sums of money called gratuities, not exceeding at the most 10*s.* Experience shows that these sums, if paid direct to the prisoners themselves on discharge, are very liable to be abused. The Government are therefore anxious that they should be paid through the medium of a Prisoners' Aid Society, and have inserted a condition to this effect in the circular letter already mentioned, under which all societies desiring to participate in the Government grant are compelled to receive and administer these gratuities if above a certain amount.

The case of *convicts, i.e.* persons sentenced to *penal servitude,* does not properly, perhaps, belong to my subject. I will, however, shortly allude to it, in order to complete the view of the present position of Prisoners' Aid Societies. Convicts, of course, frequently earn while in prison gratuities amounting to 5*l.* or upwards, and it is obviously desirable that there should be some society established in the neighbourhood of the place to which each man returns on discharge, who can receive and administer this money for his benefit. Moreover, according to the Government regulations in certain cases, a portion of this gratuity is only paid *on condition* of its going through the hands of a society. It seems, therefore, important that all societies should undertake to assist convicts belonging to their own district; and as such convicts bring, as it were, money in their hands, it is somewhat surprising that this is not universally done. In my opinion, it would be reasonable if Government were to require societies who desire to participate in the grant made in respect of county prisoners, to undertake to assist convicts also. No such condition has, however, been imposed.

It is understood that the Government desire to see Prisoners' Aid Societies extended over the whole kingdom,

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and it is probable that the somewhat peculiar scheme which they have drawn up for the distribution of the 4,000*l.* grant has, in some measure, been framed to promote this object. It must be remembered that the operation of the Prisons Act, 1877, has made easier the task of completing the network of Prisoners' Aid Societies over the whole country. Many small gaols have been closed, and the number of local prisons has been reduced from 113 to 68. Each of these will be of some size, and it is greatly to be desired that each should be connected with a Prisoners' Aid Society. In some cases a society may embrace more than one gaol within its operations; but there should be no gaol in England whose prisoners should be allowed to feel that they are friendless when they leave its walls.

It may be well to add a word as to the conditions imposed upon the societies by the letter of Sir R. A. Cross, already alluded to, and appended to this paper. Some of these, when first proposed, were strongly objected to; but a reference to the appendix will show that, as the result of communications addressed to the Home Office, concessions have been made which obviate in some degree the objectionable features in question. There yet remain, however, certain unsatisfactory points. Among these may be mentioned (1) the smallness of the sum (4,000*l.*) devoted to the purpose; and (2) the want of some definite understanding under which prisoners, who may from various causes have failed to gain the full maximum attainable under the stage system, may yet, in exceptional cases, receive assistance on discharge, of course subject to such guarantees as may be necessary. Time forbids me to say more upon this head.

So far I have endeavoured to sketch the present position of Prisoners' Aid Societies. It remains to consider what steps can be taken to promote their efficiency. And I am sure that the managers of all societies will gladly welcome any assistance which can be given them in their difficult work. I fear, however, that no universal panacea is to be found. Workshops or manufactories established especially for the employment of discharged prisoners, unless of a very exceptional character, seem open to serious objections. Homes for adult male discharged prisoners (of whom alone I am speaking at the present moment) have been tried on several occasions, but generally, though not universally, without success. Nor am I inclined, for my own part, to favour any plan which involves a heavy expense. It must be remembered that Prisoners' Aid Societies are but one link, and that not a principal link, in the great

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chain of law, prisons, and police, which has for its object the repression of crime. The cost of each link should bear some proportion to the expense of the whole.

It remains that we should make the *most* of the means already at our disposal. In the first place, any course of action which really amounts to giving a man a few shillings, and letting him go, should be strongly discouraged. Such a proceeding may be defensible as a method of rewarding good conduct in prison; but if regarded as the means of enabling a man to regain his place in society (which is surely the object with which we are at present concerned), it must always be most imperfect and unsatisfactory. It is true that societies are required by the Government to undertake the administration of the small gratuities paid to prisoners under the new progressive stage system. But in this case the money does not belong to the society, nor are they in any way responsible either for the system itself or for its results. But were a society to lay out any of its own money upon a similar plan, the mistake, as it seems to me, would be great.

Again, I cannot but think that every society should make, at all events, *some* effort to ascertain what has become of the men whom they have assisted. Not only should we endeavour to keep an eye upon every man *until* he has obtained work, but, further, we ought, I think, at the end of each year, or at some other stated period, to review our list of past cases, and make an effort to ascertain where each man is, and what he is doing at the time then present. I know well, by experience, the difficulty of doing this; still, something may be done by correspondence, by visits and the like, towards making up our books in this manner. And without some such attempt, we are working, as it seems to me, very much in the dark.

In the next place, I would insist upon the necessity of having an agent or agents of some kind to help and supervise the discharged prisoners to be assisted. The expense involved need not be heavy. A society working upon a comparatively small scale will not require the entire time and energies of its agent. An old policeman, with a pension, may be found, who will give a portion of his time to the work. Or, an arrangement may be made with some other charitable association in the neighbourhood. For instance, the agent of a Charity Organisation Society, or even a collector, or a school attendance officer, might at the same time act as the agent of such a Prisoners' Aid Society as I have indicated. In any such case the salary required would be very small.

The following plan has been adopted by the Chester

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Prisoners' Aid Society. Agents have been appointed in all the principal towns in the county. These are persons engaged in business and otherwise, as the case may be, some of whom give their services gratuitously, and others receive a small fee for each case referred to them. Their expenses are, of course, repaid. The society has fortunately been able to find persons willing to act on these terms.

In the task of supervising men living at a distance, some such management as that employed by the Chester society may be available. In other cases the assistance either of the parochial clergy, or of the police, may be requested. The clergy are an obvious resource, but it may appear to some a strange proposal to suggest an application to the police in such a case. Others, however, hold a contrary opinion. The police appear to be in many respects very proper persons to undertake the task in question. The time which it will subtract from their duties will be very little; nor can they, from a mere policeman's point of view, be more usefully occupied than in helping a thief to turn into an honest man. And experience proves that, if properly authorised, the police will very readily co-operate with a judiciously managed society. In Gloucestershire, indeed, the entire work of befriending discharged prisoners is done through the police, and is done most effectively, as has been shown by Mr. Barwick Baker, of Hardwicke. If, however, a difficulty be felt upon this score, correspondence, with the aid of the clergy, and, if necessary, of suitable agents, will probably be found to suffice.

Ready co-operation and mutual aid between the different societies is more than ever necessary now, when prisoners are frequently transferred from one gaol to another, so that a London man may be in a Cheshire prison, returning to London on his release. In such a case, the prison authorities will naturally communicate with the Cheshire society, and the Cheshire society must, I presume, provide the funds, the London society undertaking the actual management of the case for them. It may, I think, be assumed that the good feeling which exists between the different societies will prevent the occurrence of any difficulty in carrying out any reasonable arrangement of this kind.

My last suggestion is the only one which has any pretence to novelty, and it is this: I think some better system of communication should be devised between the societies on the one hand, and the police and judicial authorities on the other hand, so that in the event of a reconviction, the conduct of the prisoner while under assistance may be known.

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A man who has misconducted himself while under the care of the society, or has shown no inclination to support himself honestly, ought, upon reconviction, to be treated as a determined criminal, and to receive a proportionately lengthened sentence. Such a course would materially contribute to the efficiency of Prisoners' Aid Societies. For, if it were known that misconduct while under assistance would be brought up against the offender hereafter, prisoners who do not really intend to do right would avoid the societies, and so relieve them of their worst cases; while those who have once joined the societies would have the more inducement to persevere. Anything which tends to stop crime, by revealing the true nature of the worst criminals, and so ensuring their seclusion from society, ought to be embraced by all.

Counties without Discharged Prisoners' Aid Societies.

Berks.	Norfolk.
Cambridge.	Notts.
Cumberland.	Oxford.
Derby.	Rutland.
Hereford.	Salop.
Hertford.	Somerset.
Hunts.	Westmoreland.
Lancashire (part).	York. North Riding.
Leicester.	

All the counties in Wales except Glamorgan.

25 & 26 VIC., CAP. 44.—AN ACT TO AMEND THE LAW RELATING TO THE GIVING OF AID TO DISCHARGED PRISONERS. *Preamble and Clause* 1.

Whereas by the thirty-ninth section of an Act passed in the session holden in the fourth year of King George IV., chapter sixty-four, intituled 'An Act for consolidating and amending the laws relating to the building, repairing, and regulating of certain gaols and houses of correction in England and Wales, and hereinafter referred to as "the Gaol Act," it is provided that it should be lawful for any one or more of the visiting justices of any prison to which that Act extended, from whence any prisoner should be discharged, to direct that such moderate sum of money should be given and paid to any and every such prisoner so discharged who should not have the means of returning to his or her family or place of settlement, or resorting to any place of employment or honest occupation, as in the judgment of such justice or justices, should be requisite and necessary for such purpose, under all the circumstances attending the case of any such prisoner; and that such sum of money should be

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paid by the keeper of such prison, to or for the use of such prisoner for the purpose aforesaid; and that all such sums should be provided for, either out of such bequests or benefactions as therein mentioned, or in such manner as is by the Gaol Act directed with respect to the expense of the support and maintenance of the prisoners in the prisons to which such Act extends: and whereas divers societies, hereinafter referred to as 'Discharged Prisoners' Aid Societies,' have been formed in divers parts of England, by persons subscribing voluntarily, for the purpose of finding employment for discharged prisoners, and enabling them by loans and grants of money to live by honest labour: and whereas it is expedient that power should be given to the visiting justices of prisons to give aid under the said Act to discharged prisoners through the medium of a Discharged Prisoners' Aid Society, in cases where such society has been previously certified by the justices having jurisdiction over such gaol or house of correction at some court of General or Quarter Sessions, or at some quarterly sessions held by them, to be a society approved of by them: be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The justices having jurisdiction over any gaol or house of correction to which the Gaol Act extends may, at any court of general or quarter sessions, or at any quarterly sessions, upon the application of any one or more member or members of a Prisoners' Aid Society, and after examining the rules of such society, and receiving such evidence as they think fit as to the condition of such society, issue a certificate under the hand of their chairman, to the effect that such society is approved of by them for the purposes of this Act; and they may, at any future court of General or Quarter Sessions, or at any future quarterly sessions, upon due cause shown, by a writing under the hand of their chairman, revoke or suspend such certificate; and any society in respect of which such certificate as aforesaid has been granted and remains in force, shall be deemed to be a 'Certified Prisoners' Aid Society,' and to be entitled to such privileges as are hereinafter mentioned.

Prisons Act, 1877 (40 & 41 Vict., cap. 21).—Sec. 29.

Where any prisoner is discharged from prison, the Prison Commissioners may, on the recommendation of the visiting committee or otherwise, order a sum of money, not exceeding two pounds, to be paid by the gaoler to the prisoner himself, or to the treasurer of a certified Prisoners' Aid Society or Refuge, on the Gaoler receiving from such Society an undertaking in writing, signed by the Secretary thereof, to apply the same for the benefit of the prisoner.

S. 25. . . . A Prisoner who is confined in a Prison situate beyond the limits of the county, borough, or place in which he was convicted of his offence shall, at the time of his discharge, be taken back at the public expense to the county, borough, or place in which he was so convicted.

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CIRCULAR LETTER TO THE MANAGERS OF DISCHARGED PRISONERS' AID SOCIETIES.

WHITEHALL, *March* 8, 1880.

SIR,—I am directed by Mr. Secretary Cross to acquaint you that he has been in communication with the Prison Commissioners, and the Lords Commissioners of the Treasury, on the subject of the grants to be made out of Public Funds to be applied for the benefit of Discharged Prisoners by the various Discharged Prisoners' Aid Societies, and after much consideration the following arrangement has received their Lordships' sanction as a temporary measure, subject to revision at the end of twelve months.

1. A sum of 4,000*l.*, commencing from April 1 next, has been fixed as the maximum of the grant in respect of all the prisons, to be available if all the required conditions are fulfilled. The grant will be appropriated in the following manner:—

2. There will be assigned to each prison, as its possible maximum, the proportion of the 4,000*l.* which its number bears to the total average number, or which its annual discharges bear to the total annual discharges.

3. The sum will be granted on condition:—(*a*) That there is a working Discharged Prisoners' Aid Society taking charge of the prisoners from that prison. (*b*) That the Society receives subscriptions to at least an equal amount, or if not that the grant from Government be limited to an amount equal to what the Society has received. [1] (*c*) That the Society has Officers to manage it, and to perform the duties which it undertakes in regard to the prisoners, not belonging to the prison staff, whose duties shall be confined to recommending cases and giving information as to prisoners. (*d*) That the Society also takes charge, if required, of the sums awarded to prisoners under the Progressive Stage System above a certain amount which will be fixed. [2] (*e*) That it makes grants only to prisoners recommended by the appointed prison authorities, and in order that its grants may not clash with the Stage System, it shall make them only to prisoners who have earned as much as the rules allow, or if the rules allow none, have been industrious and fairly conducted in prison. [2] (*f*) That the grant in aid of any prisoner shall not, in any case, exceed on the whole 2*l.*, including the sum awarded under the Stage System.

4. The amounts disbursed by the Aid Societies will be repaid to them either monthly or quarterly, on production of the necessary vouchers.

In order that the grant may be apportioned in the way prescribed, Mr. Cross requests that you will have the goodness to furnish him with a statement of the annual subscriptions to your society; and you are requested to furnish the names of persons authorised by you to receive the grants for you.

[1] See next paragraph. [2] See letter of July 14, on next page.

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[1] He desires, also, to give notice that so soon as time has elapsed, sufficient to allow of other arrangements being made, Prison Officers will no longer be permitted to act as secretaries or managers of Discharged Prisoners' Aid Societies.

These societies will be requested to furnish such periodical statements as may be required as to the work done by them, and it will be expected that their accounts and books will be open to inspection, on behalf of the Government, so long as grants are made to them from Public Funds.

I am, sir, your obedient servant,
(*Signed*) A. F. O. LIDDELL.

Upon the receipt of this circular, strong representations were made to Sir R. A. Cross, and also to his successor, Sir Wm. Vernon Harcourt, upon certain points; and in the end, on June 4, 1880, Sir W. V. Harcourt, in an interview with a deputation of justices, being members of prison visiting committees, consented to withdraw altogether the objection to prison officers (chaplains, &c.) acting as honorary secretaries of Prisoners' Aid Societies.

In reply to a subsequent communication, the letter next following has been received, in further explanation of certain points in the circular.

WHITEHALL, *July* 14, 1880.

SIR,—With reference to your letter of the 1st ultimo, forwarding a copy of resolutions passed at a conference of managers of Discharged Prisoners' Aid Societies, and to the deputation subsequently received by the Secretary of State on the subject, I am now directed by Sir William Vernon Harcourt to inform you that the condition (*e*) in the Home Office Circular of March 8 last was inserted for the purpose of insuring that a prisoner who, in consequence of idleness or misconduct in prison, had forfeited the marks or gratuity he might have earned, should not be able to set at defiance the prison authorities by obtaining a gratuity which would be directly or indirectly furnished from Government Funds. Sir William Harcourt feels assured that Prisoners' Aid Societies would not desire to expend their funds upon such undeserving prisoners, and he does not think therefore that the condition referred to can unduly fetter their discretion.

With regard to the condition (*f*) in Circular, I am to say that the Secretary of State has no objection to the societies granting from their own funds a sum in addition to the 2*l.* named in the Circular.

I am, sir, your obedient servant,
(*Signed*) A. F. O. LIDDELL.

To the Secretary of the
REFORMATORY AND REFUGE UNION,
435 WEST STRAND, W.C.

[1] See next paragraph.

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PROVINCIAL DISCHARGED PRISONERS' AID SOCIETIES.

Name	Post Address	When founded	Sex of persons aided	Honorary Secretary or Correspondent
†Aberdeen Discharged Prisoners' Aid Society	50 Union Street, Aberdeen . .	1874	M. & F.	Geo. Milne, Esq., McCombie's Court, Aberdeen
*Bedford Discharged Prisoners' Aid Society	H.M. Prison, Bedford . . .	1874	M. & F.	The Governor
‡Belfast Prison Gate Mission . . .	Tudor Lodge, Crumlin Road, Belfast	1876	F.	Mrs. Irving
*†Birmingham Discharged Prisoners' Aid Society	H.M. Prison, Birmingham . .	1856	M. & F.	Rev. T. W. Peart
*†Bristol Discharged Prisoners' Aid Society	19 College Green, Bristol. *Agent*, Mr. Fletcher. *Agent for Women*, Mrs. Moore, 7 Richmond, Place, New Cut, Bristol	1872	M. & F.	D. Macpherson, Esq.
Bucks Discharged Prisoners' Aid Society	Aylesbury	1867	M. & F.	John Williams, Esq., Bucks and Oxon Union Bank, Aylesbury
†‡Carlisle Memorial Refuge . . .	Winchester	1864	F.	Rt. Hon. Sir W. Crofton, C.B.
*†Cheshire Discharged Prisoners' Aid Society	Egerton House, Chester. . .	1876	M. & F.	T. L. Murray Browne, Esq.
Devon Discharged Prisoners' Aid Society	H.M. Prison, Exeter . . .	1875	M.	Rev. J. Pitkin
‡Dublin Prison Mission	Blackhall Place, Dublin. . .	1876	F.	Mrs. Eustace, Elmhurst, Glasnevin
*†Dundee Discharged Prisoners' Aid Society	18 Meadowside, Dundee . .	1872	M.	Mr. J. Scrymgeour, *Agent*
*East Glamorganshire Discharged Prisoners' Aid Society	H.M. Prison, Cardiff . . .	1860	M. & F.	C. Waldron, Esq., 74 St. Mary Street, Cardiff
*East Sussex Discharged Prisoners' Aid Society	H.M. Prison, Lewes. Rev. T. H. Cole, *Chaplain*	1860	M. & F.	Major W. F. Stehelin

* Certified under Act for giving Aid to Discharged Prisoners, 25 & 26 Vict., cap. 44.
† Assist Convicts by arrangement with Directors of Convict Prisons.
‡ Have Homes.

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PROVINCIAL DISCHARGED PRISONERS' AID SOCIETIES—*continued.*

Name	Post Address	When founded	Sex of persons aided	Honorary Secretary or Correspondent
*†‡Edinburgh Discharged Prisoners' Aid Society	Grove Laundry, Duncan Street, Newington, Edinburgh. Mrs. Weir. *Matron*	1876	M. & F.	David Harris, Esq., F.S.S., Caroline Park, Granton; J. E. Dovey, Esq., C.A., 63 Hanover Street, Edinburgh
*Essex Discharged Female Prisoners' Aid Society	Chelmsford	1863	F.	Miss C. Marriage, Coval Hall, Chelmsford
*Essex Discharged Male Prisoners' Aid Society	Chaplain's House, Springfield, Chelmsford	1871	M.	Rev. W. F. Lumley, Chelmsford
†Glasgow Prisoners' Aid Society . .	Rev. W. Brock, North Prison, Glasgow; Mr. John Cross, 111 Brunswick Street, Glasgow	1856	M. & F.	W. Paterson, Esq., 82 St. Vincent Street, Glasgow
Gloucestershire Discharged Prisoners' Aid Society	H.M. Prison, Gloucester . .	1856	M. & F.	J. Knox, Esq.
Greenock Discharged Prisoners' Aid Society	33 Dempster Street, Greenock .	1873	M. & F.	John Rodger, Esq., Clydesdale Bank, Greenock
Hampshire Society for the Relief of Destitute Discharged Prisoners	H.M. Prison, Winchester . .	1802	M. & F.	Rev. J. A. Ladbrooke
*Kent Discharged Prisoners' Aid Society	H.M. Prison, Maidstone . .	1862	M. & F.	Rev. A. H. Harrison
Kingston-upon-Hull Discharged Prisoners' Aid Society	Kingston-upon-Hull . . .	1857	M.	Rev. J. Aspinall Addison.
‡Lancashire Female Refuge	Liverpool			
*†Leeds Discharged Prisoners' Aid Society	*Agents*, Mr. Longley, 81 Whitehall Road; Miss D. Goodall, The Terrace, Carlton Hill	1864	M. & F.	Darnton Lupton, Esq., The Harehills, Leeds
*Liverpool Discharged Prisoners' Aid Society	H.M. Prison, Walton, Liverpool .	1870	M. & F.	The Chaplain at the Prison
London Discharged Prisoners' Aid Societies—*See list on next page*				

* Certified under Act for giving Aid to Discharged Prisoners, 25 & 26 Vict., cap. 44.
† Assist Convicts by arrangement with Directors of Convict Prisons. ‡ Have Homes.

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PROVINCIAL DISCHARGED PRISONERS' AID SOCIETIES—*continued.*

Name	Post Address	When founded	Sex of persons aided	Honorary Secretary or Correspondent
*†Manchester and Salford Discharged Prisoners' Aid Society	30 St. Ann Street, Manchester. *Agent*, Mr. Rayner	1866	M. & F.	J. L. Aspland, Esq., Dunkinfield, Cheshire
Newcastle-upon-Tyne Discharged Prisoners' Aid Society	Newcastle	1879	—	S. N. Challinor, Esq.
*†North Staffordshire Discharged Prisoners' Aid Society	*Agent*, Mr. Thos. Smith, 1 Oak Hill, Stoke-on-Trent	1865	M. & F.	Rev. C. Goldney, H.M. Prison, Stafford
Paisley Discharged Prisoners' Aid Society	Paisley	1877	M. & F.	J. H. Dunn, Esq., County Place, Stafford
*Portsmouth Discharged Prisoners' Aid Society	St. Thomas Street, Portsmouth .	1874	M. & F.	A. C. Burbidge, Esq.
*†South Staffordshire Discharged Prisoners' Aid Society	*Agent*, Mr. W. Colenso, 1 Union Mill Street, Wolverhampton	1865	M. & F.	Rev. C. Goldney, H.M. Prison, Paisley
‡Staffordshire County Refuge	Stafford	1878	F.	Rev. W. P. Vincent
*Suffolk Discharged Prisoners' Aid Society	24 Clarkson Street, Ipswich. Mr. S. Waters, *Secretary*	1875	M. & F.	Robert Johnson, Esq., *Honorary Secretary*, Boyton, Woodbridge
Usk Discharged Prisoners' Aid Society .	H.M. Prison, Usk	1865	M. & F.	J. Cadwallader, Esq.
*Warwickshire Discharged Prisoners' Aid Society	H.M. Prison, Warwick . . .	1835	M. & F.	Rev. J. Richardson
*West Glamorgan Discharged Prisoners' Aid Society	Swansea	1869	M. & F.	S. B. Power, Esq., J.P., Lismore House, Swansea
*‡West Riding Industrial Home for Discharged Female Prisoners	St. John's, Wakefield . . .	1847	F.	Mrs. Godfrey Armytage
*‡West Riding Industrial Home for Discharged Male Prisoners	Wakefield	1864	M.	Mr. Goodwin
*Wilts Discharged Prisoners' Aid Society	H.M. Prison, Devizes . . .	1870	M. & F.	Rev. A. C. Devas
Winchester St. Mary's Home . .	Winchester	1873	F.	Miss Wells

* Certified under Act for giving Aid to Discharged Prisoners, 25 & 26 Vict., cap. 44.
† Assist Convicts by arrangement with Directors of Convict Prisons. ‡ Have Homes.

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LONDON DISCHARGED PRISONERS' AID SOCIETIES.

Name	Address	When founded	Sex of persons aided	Prisoners aided	Hon. Secretary or Correspondent
City of London Sheriffs' Fund	The Rev. the Ordinary, H.M. Prison, Newgate.	1807	M. & F.	Long and short-termed Male and Female Prisoners from Newgate and Holloway, or any other prison, who have been tried at the Central Criminal Court	Rev. F. E. Lloyd Jones, Ordinary of Newgate
Discharged Female Prisoners' Aid Society	Nine Elms House, 141–3 Wandsworth Road, S.W.	1864	F.	Female Convicts and short-termed Female Prisoners from any London or Convict Prison	Mrs. Meredith
‡Elizabeth Fry Refuge . .	195 Mare Street, Hackney, E.	1849	F.	Females between the ages of 17 and 30, on their discharge from Metropolitan Prisons. Free	Miss S. Forster
*Metropolitan Discharged Prisoners' Relief Committee	27 Chancery Lane, W.C.	1864	M.	Short-termed Male Prisoners from H. M. Prison, Cold-bath Fields, Clerkenwell; also from other Prisons in town or country, on communication from the authorities	T. Hope McLachlan, Esq.
‡Refuge for the Destitute .	Manor House, Dalston Lane, E.	1805	F.	Females between the ages of 15 and 25, 5*s.* per week, if possible	Rev. H. M. Baker
‡Royal Female Philanthropic Society	Manor Hall, Great Church Lane, Hammersmith, W.	1822	F.	Criminals between the ages of 15 and 25, on first conviction, 5*s.* a week, if possible	Samuel Vaughan, Esq. (Secretary)
Royal Society for the Assistance of Discharged Prisoners, and Westminster Memorial Refuge	39 Charing Cross, S.W.	1857	M. & F.	Convicts from the Government Convict Prisons only	Major Tillbrook (Secretary)
Surrey Discharged Prisoners' Aid Society	The Governor, H.M. Prison, Wandsworth, S.W.	1824	M. & F.	Short-termed Male and Female Prisoners from Wandsworth Prison	Colonel Ross, Woodseat, Dulwich, S.E.
‡Woman's Mission to Women .	435 West Strand, W.C.	1858	F.	Cases of Attempted Suicide	Mr. Arthur J. S. Maddison

NOTE.—The Middlesex Society for Promoting the Reformation and Employment of Discharged Prisoners grants money to other Societies, but itself undertakes no active work.—Hon. Secretary, C. WRIGHT, ESQ., Sessions House, Clerkenwell, E.C.

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On the Same.

By the Rev. J. W. HORSLEY, M.A., Chaplain, H.M. Prison, Clerkenwell.

THE question to which I am asked to give some answer is obviously divisible, or rather is, in point of fact, divided into two parts—the present position of Prisoners' Aid Societies, and how their efficiency may be promoted.

Believing that the former point will be excellently treated by another gentleman, whose Papers will be before you, I propose mainly to address myself to the latter question.

I would, however, refer briefly to two points connected with the former question: the mark system, and the position of prisoners in default of bail with regard to aid on discharge.

It seems to me neither desirable nor equitable that the mark system should be taken as the sole, or even the chief, basis of the aid given by Government to Discharged Prisoners' Aid Societies, or by such societies to those they aid. The system is simple, and may be useful as a means of purchasing good behaviour in prison; but, in the first place, there was little bad behaviour before the system was adopted in local prisons; and again, it has not, I think, been proved that it to any appreciable extent increases external order and good behaviour. My chief objection, however, to its being adopted as the chief basis of Government aid to societies, or as a guide to the aid given by societies, is that it does not even profess to be based on the real merits, and especially the needs, of the prisoner. Two instances within my own knowledge will illustrate what I mean. A male prisoner, on leaving Clerkenwell, complained to me that the 10*s*. he had earned under the mark system had been paid to him in silver, whereas he had desired a half-sovereign, that he might have it made into a breastpin, as a memento of his prison experience. Again, my friend the Rev. G. P. Merrick, the excellent and indefatigable chaplain of Westminster Female Prison, believing that a large proportion of the new gratuities did positive harm and little good, caused all the money so distributed on a certain day to be marked. The next day he sent to the public-house opposite the prison for a pound's worth of silver, and found that nearly the whole of it consisted of the coins he had marked. Both these instances point surely to a considerable waste of public money, and suggest the desirability, at least, of all gratuities above a certain sum, say half a crown, being paid (as is

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allowed by Home Office regulations) solely through the agency of a Prisoners' Aid Society. The system is not based on the real merit of each case, for an habitual criminal, with a long sentence, knows by experience how to avoid the breach, or detection in the breach, of prison rules, and is sure to get the maximum gratuity, and yet tolerably sure not to make a good use of it; while, on the other hand, a really deserving prisoner, in prison for the first time, and having received a short term because the magistrate or judge saw he was worthy of leniency, cannot receive any gratuity, or, at any rate, only a few pence, simply because of his merit; nor is the question of destitution, or want of such clothing, tools, or temporary shelter, as are necessary for his finding fresh employment, taken at all into consideration. The possibly inevitable defects and faults of the mark system are, in fact, such as to lead me to wish that by it prisoners could earn no money reward, but simply an increase of privileges, or possibly an abbreviation of sentence, as in the convict prisons. It is plainly simple, but, it seems to me, as plainly bad, that the mark system should in any way be taken as the basis of Government aid to Prisoners' Aid Societies.

The next point on which I would say a few words is that of the position of prisoners in default of bail, of whom there are always some 130 in the prison to which I am attached. In the days of the county *régime*, which I for one never desire to see return, such cases were always eligible for aid on discharge, whereas they are ignored by the present system. And yet they are in reality convicted prisoners; and if their term of confinement in default of bail has been preceded by another term of hard labour for the same offence, they are treated as convicted prisoners, with the important exception of being ineligible for Government aid on discharge. It is, however, often apparently but a matter of chance whether an offence is visited by an imprisonment, or a term of confinement in default of bail, while their needs, and the probability of their reformation, are the same as those of convicted prisoners; and therefore I cannot see why in equity they, or the societies helping them on discharge, should be placed in a different position with regard to Government aid.

I come now to the question how Prisoners' Aid Societies can be made more efficient, and I throw out some suggestions, briefly and without logical order, taking it for granted that it will be admitted that such societies are of primary importance from a social and economic point of view, even if we could or should lose sight of religious and moral grounds. It is, I

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conceive, an incontrovertible thesis, that every 10*l.* prudently expended on the aid of discharged prisoners will save 100*l.* of public money; and I have known instances in which 10*s.*, or I might almost say 10*d.*, saved what seemed an inevitable relapse into expensive crime.

1. Far more pecuniary aid is needed from the public, who are interested enough in all things relating to prisons and prisoners, but have somehow and somewhence got an idea that Government, or some other abstraction, supplies all necessary funds. It is sheer ignorance, I am convinced, and not apathy, or a forgetfulness of the fact that the words 'and in prison' are added to the Saviour's words, 'I was sick and ye came unto me,' that causes the subscription lists of most, if not all, societies to be so meagre. Nor can I with complacency or respect regard the fact that the donations and subscriptions previously given by justices of the peace, which formed the staple income of societies, have considerably fallen away since their power and their beloved, if petty, patronage has decreased. In cases where such aid sprang purely from philanthropy of course the subscriptions continue, but their cessation in many other cases suggests that inferior motives must have prompted liberality before.

2. But there is a greater need even than that of money—namely, the need of men. Money I can always get from public or from private sources to aid the deserving, but with great futility have I attempted in various ways to find employers of labour who would promise to give work to ex-prisoners if, and when, there was a vacancy in their staff of workers. I have heard that in some counties such men are found, but in Middlesex, at any rate, they seem non-existent. Societies would not be so anxious about their funds if they had lists of employers—builders, wharfingers, laundry proprietors, and factory owners—to whom men or women might be sent on discharge with some prospect of employment, and a certainty of not receiving a rude and discouraging rebuff.

3. If funds were sufficient a most useful work could be set on hand, by the establishment of laundries, sewing-rooms, wood-cutting, tailors' and shoemakers' shops, in which decent pay could be given to prisoners on their discharge, as a half-way house to better and more remunerative work. Here characters would be tested and abilities discovered, as well as time gained, during which better places could be found; only the stumbling-block of obviously inadequate pay must be resolutely avoided. Better help a few substantially and really than give to many an occasion of discontent and cavil.

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4. Again, with ampler funds there could be established refuges for men and women, to which they might go direct from prison; such refuges to give simply supper, bed, and breakfast, leaving the inmates free to spend the day in searching for employment. Those who know by experience how much depends on the way the first day, or even the first hour, after discharge is spent, will at once recognise the great benefit of such institutions, which exist to a small extent, but almost exclusively for women. Many are tolerably certain of getting employment after a few days, but, homeless and friendless, lose heart for want of temporary shelter other than a low lodging-house in perhaps an evil and too well-known haunt. If such refuges were kept by an agent of the society, and visited daily by an unpaid worker, their benefits would be increased.

5. Again, with ampler funds societies could make use more frequently of the two most efficient forms of aid—migration and emigration. A few days ago I received a letter from a woman for whom many plans had been tried in vain, and whose prospect of employment in England was of the smallest. I was enabled to help to send her to America, and directly she got a place as chambermaid in an hotel, at 40*l.* a year. And two men this year, hopeless of their prospects in England, have gone hopefully to Canada, by means of funds entrusted purely to my discretion, when it would have been impossible for a needy society to have risked so much money on a single case. The Rev. G. P. Merrick, to whose zealous and intelligent labours for female prisoners I have already referred, has reason to rejoice over the good effects achieved by an emigration fund he elicited from the public by a letter to the press. The two classes most likely to be benefited by emigration are: the obviously hopeful, and the wellnigh hopeless, types of prisoners.

6. To revert again to the need of men rather than of money, I would say how much voluntary agents are needed to take up individual cases (*divide et impera*) or distinct lines of work. Surely there are many who could and would say to Prisoners' Aid Societies, 'You may send me one, or so many cases, in a year, and I will find the money, the time, and the labour to do my best for them.' This would most beneficially introduce the element of personal regard and human sympathy, which can hardly be found in the operations of a society. And again, some such workers might have an attraction to, or be trained in the practice of, a particular line of work. One lady thus, in London, takes up for me the distinct work, and that

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alone, of looking after the wives and families of men above the lower classes who have been sent to penal servitude; and in no case has she failed somehow to dispose of the children, or find employment for the wives. Others, again, might well be employed in shepherding and visiting (of course in no inquisitorial or detective spirit) cases that had already been aided by the Society.

7. Next I must express my regret that in one instance England seems far behind other countries in the management of prisons. I allude to the admission and recognition of voluntary, but accredited, agents to the prisons. Governors, chaplains, and other existing internal agents are neither infallible nor perfect, nor have they much leisure for the study of the needs of individual cases; and I believe any earnest official worker would welcome heartily such supplements to his work. In Austria, I find, volunteer visitors are admitted, if of societies occupied in the care and improvement of prisoners. In France there is a special order of Sisters (Marie Joseph) for female prisons; and others are allowed by authority of the Minister of the Interior. In Prussia they are admitted, and in some provinces of Italy. In the Netherlands special associations for this work exist in some cities. In Mexico, Switzerland, and Maryland they are allowed. In England, however, the land of Howard and Elizabeth Fry, they are few and far between, and their existence is abnormal and unencouraged. I need not stop to point out the advantages alike to prisoners and to Prisoners' Aid Societies that would accrue if such agency could be at least allowed, if not favoured. Discipline, which has a divinity, but may become a fatuous idol, is the barrier to their path.

8. It would be in many ways beneficial if in every prison there was a Chaplain's Fund, or, where it seemed more advisable, a fund administered by the governor and chaplain conjointly, derived, it may be, chiefly from private benevolence, and yet, if necessary, aided by a grant from the Prisoners' Aid Society, or even Government, to meet such cases as might, though worthy, be excluded from aid by the rules of Government or the societies. I have alluded already to the case of bail prisoners; I would add that of those who are ineligible for aid by present regulations, because once, and perhaps in the beginning of their imprisonment, they have committed some offence against prison discipline. It is law, not equity, which denies a place of repentance to such. In other cases there is no time, from various reasons, to refer the prisoner to societies. Sometimes, again, it may be most desirable to aid

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the families of prisoners; and in other ways the need is apparent of a fund which shall not be swathed in iron or red tape. I invariably aid through established and authorised agencies, where possible, but yet I have expended in four years some 200*l.*, derived from private sources and entrusted solely to my discretion, and in so doing I have materially helped existing societies, and that not merely in cases where for some, and possibly adequate, reason they could not have dispensed aid.

9. A confederation of Prisoners' Aid Societies—there are, I believe, some thirty-four in England—is most desirable to promote their efficiency by unification of action, the increase of facilities for migration and friendly supervision, and furthering the knowledge of the best means for aiding discharged prisoners. The Metropolitan Discharged Prisoners' Aid Society might readily be taken as the centre of such a work, and gain without jealousy, inconvenience, or harm the position of a head or parent society, to which all others should be affiliated, while preserving the utmost liberty and variety of action.

10. My last point may appear minor, but is yet, I believe, important. It is that the committees of our societies should never be, what they almost in every case are, exclusively of one sex. John Howard has his work, his power, his insight into things, and his special experience; and Elizabeth Fry has hers as well, parallel but not identical; and in the working out of the details of a society's work the need of the special qualifications and powers of either sex must or should be felt.

I must trust that the matter of this Paper will commend itself more than its form. I received so short a notice that this has been written literally *currente calamo*, and at two sittings, in the intervals of pressing and varied work.

Captain J. E. Christie, Governor of the Prisons of Edinburgh, also read a Paper on the same subject, of which the following is a condensation:—Our forefathers were content with the mere punishment of crime, turning the cold shoulder and holding up the finger of scorn to all criminals on their emerging from captivity; and it was not until the public became alarmed at the great increase of crime that various attempts were made to see whether, by any means, the criminal could be reclaimed from his evil ways and induced to work for an honest livelihood.

The most effective of all punishments is strict separation, both as regards its deterrent influences and those which may lead to a reformation of the criminal. Without such a system

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reformation becomes almost hopeless. It is a generally acknowledged fact, that reformation cannot be effected by punishment alone. The question therefore is, what should be done with the criminal upon discharge, and if anything, how can that be accomplished in a manner so as to be as effectual as possible. In such a problem the efforts of Discharged Prisoners' Aid Societies have been established beyond all doubt, and even friends, who desire to help their relatives on completion of their sentences, would best secure their purpose by throwing themselves into the hands of such societies which have, as a rule, most efficient agents skilled in the very art of influencing towards reformation. In other words, let the action be united, and let the individual be in the first instance approached by such an agent. To give a prisoner money upon discharge will be found almost invariably to pave the way for a speedy return to prison. As a rule prisoners' money should be settled with such societies by means of a voucher system, which would secure the application of the same for the prisoners' benefit in place of being squandered in the nearest public-house.

As Discharged Prisoners' Aid Societies have hitherto been so successful in dealing with adult crime, it is to be hoped that they may receive the generous support of the public, and that in the course of a few years, by their exertions, a similar success may be achieved in adult crime commensurate with the fortunate results of the efforts of industrial schools and reformatories with juveniles. Homes under the auspices of such societies cannot be too strongly recommended, and it is believed that such, after a little time, might be self-supporting.

A special home for males, and another for females of the old and hardened class, should be tried in the country, a few miles from cities, as a means of checking the growth of adult crime; and the greatest care should be exercised in order to prevent old hands getting into the same places with young individuals, owing to the dangers of their contaminating influence.

A Paper on the 'Treatment of Discharged Prisoners' was also read by Mr. Walter Paterson, Hon. Secretary, Discharged Prisoners' Aid Society, Glasgow, giving some brief details of the Society's experience during the past twenty-four years. In 1857 a Home was opened for the reception of discharged male prisoners. All were invited as they left the prison to avail themselves of the helping hand thus held out to them; but very few responded, and these were all old offenders.

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The result was that at the expiry of two years 40 per cent. were again found in prison. The Home was shortly thereafter discontinued, and it was determined to try a second experiment, in the purchase of a small farm and homestead at some distance from Glasgow, entailing a cost of about 1,000*l.* The inmates were to cultivate the farm, and work indoors in rough weather. This second experiment fared no better than the first. Of 60 inmates regularly entered on the books, it was found that 41, or nearly 70 per cent., had returned to crime within a period of about two years. The farm was then sold. These were very costly experiments.

On a review of the past it was found that we had altogether failed to reach the most hopeful class of criminals, those new to crime, who had entirely shunned us, as they did not care to mix with old offenders; and it was determined to try a third experiment, on the principles of treating each case singly without previous probation, dealing chiefly with those new to crime, and conducting our operations entirely inside the prison. Fourteen years' experience has afforded the following results:—Cases dealt with, 1,010; return to crime, 92, or rather under 10 per cent.; total expenditure, 1,101*l.* The Society regard the return to crime as the one reliable test of their operations, and they have used every available means to ensure accuracy in this respect.

Returned Convicts.—Seven years ago the Society determined to extend a helping hand to those convicts who elected to come to Glasgow, and they employed a second agent to deal with this class. The Society has in the seven years dealt with 450 selected cases in all, and the result is that 125, or 36 per cent., have returned to their former habits. This contrasts badly with our work within the prison, where in our fourteen years' experience the return to crime has never exceeded 10 per cent. These figures go to prove what we have all along contended for, that crime ought, if possible, to be arrested in its first downward step, and not suffered to attain maturity before it is dealt with.

DISCUSSION.

The Rev. Daniel Ace, D.D. (Laughton, Gainsborough), said that recently, when attending the British Association meetings at Swansea, he had gone over the prison there minutely, and he ascertained the fact that prisoners consider it a great privilege to be employed industrially rather than remain immured in a cell. It was also a pleasing circumstance that so many prisons throughout England had

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been abolished. This would not only effect a saving to the community, but placed prisoners under the supervision of those best able to govern them. To a great extent, the jurisdiction of local magistrates was thereby superseded; and, while a great saving was thus effected, the reformation of the prisoners themselves was being greatly accelerated. As to discharged prisoners, he did not see any objection to a clergyman exercising supervision over them. It was often the case, in the country, that the police officer came to him and made inquiries about individuals, and he should be very glad indeed to co-operate with any society that had for its object the amelioration of the condition of mankind, and also to aid such a society in preventing discharged prisoners from relapsing into crime. He might say that in his view some of the suggestions of the chaplain of Clerkenwell Prison were not at all practicable. For years he had worked in the East of London, and he knew that unless they had every suspicious character booked they could not have made way at all. Prisoners might fairly be encouraged to earn money, but the distribution of it should be under the guidance of responsible justices. With regard to the punishment of men previously convicted, he might say that there was a great objection to the system of inflicting punishment for an offence on account of which a prisoner had previously suffered. Such a system was unfair. Furthermore, the societies for relieving discharged prisoners should be assisted by the benevolence and intelligence of the community, for those societies did much to diminish crime.

Sir Rupert Kettle said he much regretted the absence of Sir Walter Crofton, who was thoroughly competent to give them every information as to the operation of the Prisons Act of 1879. As for himself, he could only speak of its operation in his own county. He could also speak of the operation of two Discharged Prisoners' Aid Societies in Staffordshire. It was true that the position of these societies was at present unsettled, and that by the operation of the Act in question. The endeavour to assist them had been so troublesome, and at present so disadvantageous, that he trusted the result of the proceedings of to-day might be the formation of some committee which would bring to bear upon the Government such influence as to induce the Home Secretary to leave Discharged Prisoners' Aid Societies alone. Now let him tell the meeting what they had done in Staffordshire before Government commenced to interfere with them. In the year 1863–4 they established two Discharged Prisoners' Aid Societies in that county, one for the northern part and the other for the southern part. For administering the criminal law, however, the county was undivided, and therefore those who presided over quarter sessions had great experience in this direction. The Earl of Lichfield was then Chairman of Quarter Sessions and Deputy-Lieutenant, and that nobleman was mainly instrumental in forming these two societies. In round numbers they had had to deal with some 10,000 cases. The mode of dealing with these cases was for the chaplain, who was honorary secretary of both societies, to communicate with the prisoners when they were in gaol. With the assistance of the governor and the officers of the prison, information was obtained as to the

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previous occupation of prisoners, and what they intended to do when they left. If it was found that a prisoner required the assistance of the society, the agent put himself in communication with him in the prison. If he had been taught any handicraft employment, work was found for him when he came out—if an ordinary labourer, labour was provided for him. In some cases, negotiations were entered into with former employers, and in this way a very large proportion had been assisted. Certainly fully one-third of these prisoners did not require money from the society; all that was necessary was that they should be reinstated with a former employer, and handed over to some relation. Others, again, required aid. Aid was, he thought, in no case given in money. The prisoners were met at the prison door, given a railway ticket, received at their destination, taken to temporary lodgings, and introduced to their work. Work was in every instance provided for them. Indeed, he did not think that there was a single instance in which forty-eight hours elapsed before some employment was found for a man. Of course there were great difficulties in dealing with the cases of females. In the case of males, the average money cost to the society in direct aid was something like 9*s.* 4*d.* per case. The society was recouped in this way. The visiting justices had power to give to every prisoner upon his discharge a sum not exceeding 40*s.* Of course some prisoners did not require 40 pence, while others required much more. In the case of females, however, the average cost was about 10*l.* each. In some years it had been as high as 16*l.* a case. In the case of ordinary prisoners, the society sent every quarter an account of the moneys expended on them in travelling, food, lodging, clothes, tools, materials, &c., to the visiting justices, and the society had from them a grant of the sum they had so expended. For females it had been found necessary to build a female refuge in the country, as they had found that it was better to deal with cases there than put them into the hands of benevolent strangers. They had spent 6,000*l.* in establishing that refuge. They had supported, as he had said, these two societies, and the whole sum received from the visiting justices was the small sum sufficient to recoup them for what was actually spent in direct aid. This had not been a fourth of what was spent in other matters pertaining to the society—the costs of management being necessarily heavy. The result of the working of the Prisoners' Aid Societies in his county was that the number of re-convictions of aid prisoners had decreased from 29 to 3 per cent. That being so, they required nothing from anyone—except the small repayment from the visiting justices; the societies only wanted to be let alone. The last thing that had happened was that a circular was issued saying that the payments he had mentioned would be discontinued, and that the chaplain was not to act as an officer of the society—that he was not to be honorary secretary. Now the chaplain was the connecting link between the inside and the outside of the prison; to take away his assistance was to deprive them of one main arm of their force. The money itself was but a small consideration, and they could have done without it, but they crippled the societies by withdrawing their officers. The Government then established a stage or mark system, and under it

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prisoners were entitled to certain sums when they came out, and would therefore have nothing to do with the agent of the society. 'What's the use of going with that man,' they would say, 'when you're to have your 2*s.*? Come over the way and have a pot of beer.' The consequence of this system was that the purpose of the Discharged Prisoners' Aid Societies was defeated. A correspondence had taken place on the subject, and he believed it was mainly owing to the representations of the societies in Staffordshire that the Government had from time to time been induced to relax the operation of their new system. In the first place, the Government had said they would not withdraw the money, but would make it a condition that those only should be paid who had attained the highest practical number of marks when in gaol. That had to do with the conduct of the prisoner in gaol, but it had nothing whatever to do with his conduct when he came out. Nothing was more irrational than to say to a man 'If you conform to all the prison rules with the greatest strictness, whether you are good or bad in heart, whether your intentions are right or wrong, when you go out of the prison door we will give you money to aid you.' He could not understand on what ground this change had been made. As to the assistance to be rendered by the officials of the gaol, particularly the chaplain, the Government had said they could have the chaplain as a member of committee, but that he must not do any 'clerical' work. For his part, he did not know what they meant by 'clerical' work; there was always something lurking under these vague expressions. He was afraid communicating by letter with a prisoner's friends was clerical work; and if so, the utility of the honorary secretary to the society was very much lessened. Before he left for Edinburgh, he had asked the agent of their society how the new system was working, with Government assistance given through the society to prisoners upon their discharge upon condition of their obtaining the highest number of marks for conduct in gaol. The agent told him that it was working disastrously. When these men found that they could not get money at the gaol gate, they went to the agent in a false, cringing spirit, and professed their willingness to work, while at the same time asking for their gratuity. When they were told that the money was to be expended on their behalf at the discretion of the society, their usual reply was that they would not work until they got it. He had kept a very careful watch of the number of re-convictions within the year of those who had obtained 'mark' money, as well as a separate account of those aided without the mark money, and if they went on at the same rate as now he was afraid that the number of re-convictions, instead of being 4 per cent., would be three times 4, and that the difference would be made up of those pets of the Government who got their money when they came out for work done while in the gaol. If they could succeed in showing the Government that they had made a great mistake, and prevail upon the Home Secretary for the future to let them alone, a great good would be achieved.

Mr. T. Barwick Ll. Baker said he wished to mention one particular point which had been alluded to before, and which he believed to be

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of very great importance. He must confess that he felt the difficulty of the case, and that his ideas thereon would be considered new, if not heterodox. The fact, however, was that they were not new or untried, and he would ask those present to give them their serious consideration with a view to the general benefit of discharged prisoners. Prisoners' aid societies trusted a great deal to their agents; but one or two or three or four agents to a county could hardly keep a careful watch upon all the different prisoners spread throughout it. The first paper had made allusion to a system which had been adopted in Gloucestershire for five years, and had met with entire success. There they had not five or six, but about 250 agents spread all over the county. The fact was they used the police as their agents. There would, no doubt, be a terrible feeling of dislike to employing the police in this work, because it was commonly held that if a policeman found out the real character of a man he would actually be so wicked as to tell the truth, and so throw him out of all employment or chance of employment. He hoped that all of them were present the previous evening at the address delivered by Lord Reay, who, in describing the honest action of English diplomatists, said 'by their honest, straightforward dealings they escaped that worst of all punishments—being found out.' Now he wanted to ask those who were anxious for the welfare of discharged prisoners whether it was not better to adopt this plan of straightforward dealing. In Gloucestershire they had for the last five years adopted the plan of giving to every prisoner who was discharged a paper, and telling him that it was his duty to inform any employer he might have of the fact that he had been in prison; also, that it would be to his interest if he informed the police likewise. Many people would suppose that this would prevent their getting general employment, but he could only say that for five years the plan had been successfully carried on in Gloucestershire. The police knew perfectly well where every discharged prisoner was. They kept watch upon them, and found work for those who wanted it. But they very seldom required it. There were men, of course, who would not work; but not only those whom the society had relieved, but all discharged prisoners were watched in this way. The public were not so very foolish as a great many people supposed. The public rarely have a decided disinclination to employ a man because he has been in prison, though they may dislike to employ a man who has done something to send him to prison. The public appreciated honest, open dealing, and readily employed men whose character was made known to them. Besides, the police saw them frequently, and gave them a good word now and again. In Gloucestershire the police inspectors acted as agents to the Discharged Prisoners' Society, and, indeed, the whole system was worked at so little expense and with such advantage to the discharged prisoners that he believed it to be as satisfactory in itself as any that could be devised. He left it to the meeting to say whether this was not the more honest and straightforward plan.

Captain Verney, R.N., said that the experience of Sir Rupert Kettle as to the working of the Staffordshire Society before the passing of the recent Act was identical with that of almost every Discharged

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Prisoners' Aid Society. He thought they really owed a debt of gratitude to that gentleman for bringing them to the point. Mr. Murray Browne's paper had suggested to him one difficulty which Prisoners' Aid Societies had to encounter. As to the falling off in subscriptions to these societies, he thought that that was due to many causes. One was that the prisoners were no longer purely local. Gentlemen living in the neighbourhood of a prison had formerly felt it a duty to subscribe to such a society when they knew that those to be aided were in a certain sense neighbours; but under the new regulations prisoners were liable to be brought from a distance, and the same interest was no longer felt in those who were in a manner strangers. He did not know whether anything could or ought to be done to remedy that state of things. He was inclined to think that it was desirable to make prisons more local. He was quite sure, however, that the change he had mentioned was one cause of the falling off in subscriptions. Among the various suggestions Mr. Horsley had made were migration and emigration. He should like to lift up his voice most strongly against such schemes. While serving in a man-of-war at Vancouver, he had seen what sort of people emigrants were. They were people who had failed in everything, and people who had failed in everything at home were not the sort of persons to succeed in a new colony. Where there was an exception, it was in the case of a man who had nothing against him; but the man who had failed in England would fail ten times as much in a colony. The man who could not do well in England, where he had all the associations of his childhood, all the friendships of his youth, all the advantages of a civilised country, would never succeed in a strange place. He would support Mr. Horsley's suggestions for having voluntary agents in the prisons. At present they were very few. There were very few people who would take the trouble to qualify themselves for the duties, and it was of the utmost importance that, where created, they should have some authority for undertaking such work. As to Mr. Horsley's suggestions that money should be placed at the chaplain's disposal which should not be disbursed in accordance with any hard and fast rule, he had to say that his experience was that if any body of people were not to be trusted with money, it was the clergy. The very nature of their profession and their training entirely unfitted them for impartial judgment. He agreed that females should be enlisted in the work of the societies, for their presence could only do good. Mr. Murray Browne's paper had been on the whole a fair one, although one point was eminently unfair. That gentleman quoted the case of Gloucestershire. Now all of them knew that in that county there was a Mr. Barwick Baker, and it did not follow that what had succeeded in Gloucestershire would succeed in other counties, unless such a man could be found in every county.

Sheriff MACDONALD (Edinburgh) said that this was a most interesting subject to all who, like himself, dealt with criminals before and after sentence. As a sheriff of Perthshire he had to deal with criminals, and as one of the Prison Commissioners he sometimes saw prisoners who were before him at their conviction. He could not help thinking that in all

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our efforts for criminals we were very apt to begin too late, and in the wrong way. He considered they began too late if they began by trying to reform criminals after they were in prison. Of course in many cases it was not possible to get near them until they had come in contact with prison discipline, but certainly they began too late in leaving it to chance whether the children growing up in large towns were to be the associates of criminals or not. Stronger and more radical measures should be taken for the purpose of preventing children who were waifs naturally and necessarily sinking into associations which made them criminals for life, and rendered them liable to punishment for breaches of a moral law which they never had had the opportunity of learning. The first thing which would help criminals to turn away from crime was to teach them that there were people in the world who had a deep sympathy with them, who had a personal, not a punitive interest in them. Prisoners, like most other people who had come in contact with red tape, were apt to disbelieve in anything of the nature of a system. One would never, as a rule, persuade prisoners that it was advisable to place themselves under societies until they had been persuaded that they must come under such a system, because it was the best thing for them to do. They must be led into a belief in prison aid societies by feeling that those who belonged to these organisations had a personal interest and sympathy with them. He thoroughly sympathised with what had been said by the last speaker about the money question. He did not think it advisable that the distribution of money should be in the hands of the clergy, for the reason the last speaker stated, and also for another. He considered it would lower their sacred office when all the notions of those so far down in the social scale in regard to the clergy were connected with money—when the feeling among such people was that they had only to persuade the clergyman they were all right in heart, in order to draw from the stores he could supply. Undoubtedly the clergyman might be very useful in advising and helping those who might have charge of the funds: to dissociate the two would be quite as great a mistake as to leave the administration entirely in the hands of the clergy. As regarded discharged prisoners, he thought nothing worse could be done to them than to hand them money on leaving prison, perhaps a sum larger than they ever had before at any one time of their lives. It might be a good thing for a prisoner to feel that there was money in the hands of the society which would be administered towards his welfare; but he could imagine nothing worse than the money being in the possession of the prisoner himself. The possession of money was a serious and strong temptation to such as are to begin with a short spell of idleness after prison discipline. In the second place, the knowledge that a prisoner, on being discharged, would have a sum of money in his possession was almost certain to result in this, that his old associates would try to meet him before he had gone twenty yards from the prison door. If the law required any alteration, it was this, that a discharged prisoner, whatever sum he might have a right to, should not have it handed to him on leaving prison. If this new system were

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followed, aid societies would be practically inoperative for any good whatever. He had one or two observations to add in regard to the question of juvenile crime. It appeared to him that unless aid societies adopted a system of absolutely disassociating their arrangements for juveniles from those applying to elder people, they would necessarily to a large extent fail in the objects which they wished to carry out. It was far too much forgotten, both in our dealings with people from a religious and social point of view as well as in our dealings with people under prison discipline, that the state of mind of the child and that of the grown-up person was absolutely different. Often one was much surprised, especially in children of the opposite sex, to find what a change a very short time had wrought—and oftentimes that change was not for the better. Therefore, if one dealt with young people up to the age of sixteen in the case of girls, and up to the ages of seventeen, eighteen, or even nineteen in the case of boys, in the same way as with older people, a great mistake was committed. A mode of reformation which might be useful and proper in the one case might be absolutely unsuitable for the other, and the association of the two he believed to be most detrimental. Therefore, going even further back, he held that one of the first things they should look at was how to deal with the first buddings of crime. Our system had been to a great extent a false one, in so far as it had treated young criminals upon the footing that they were to receive the same class of punishment as those of greater age. It would to his mind be a most useful reform if, in the work of repressing crime, some such classification as he had hinted at could be adopted.

Sheriff Comrie Thomson (Aberdeen) said that doubtless all of them were obliged to Sir Rupert Kettle for recalling their attention to the precise question set down for consideration. Perhaps, however, that gentleman was disposed to narrow the discussion rather more than the terms of the question justified. For it consisted of two parts: first, the position of Prisoners' Aid Societies with reference to the Act of 1877; and secondly, the much wider question, how could these societies be made more efficient? It was with the latter part of the question that the papers read that morning principally dealt. He confessed that he did not wonder they had heard little, except from Sir Rupert Kettle, with reference to the working and effect of the Act, because it was only within the last few months that the Home Office circular had been sent to Prisoners' Aid Societies; and, so far as he knew, they had not yet been authoritatively or officially informed of the precise action the Home Office proposed to take. In regard to the other question, however, they had had the benefit of the experience of societies which had been in existence for a considerable number of years. Before adverting to this subject, he thought he might be allowed to follow the example of so distinguished a public official as Sheriff Macdonald, and emphasise what he said we should never lose sight of in efforts for the repression of crime; and that was, that after all was said and done, the chances for repressing crime were to be found in preventive measures with the young, rather than with punitive measures with the old. He should also like to refer to a suggestion in

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the paper of Sir Walter Crofton, that if we could impress upon parents their responsibility for the criminal conduct of their children, a very great end would be attained. Within his own judicial experience he had found it a most valuable method of dealing with juvenile offenders, brought up for a first offence, to say to their parents, 'This time your child may go; but if he offends again, he shall be sent to an industrial school and you will pay every penny of his maintenance there.' Very rarely did such a child appear before him again. That system, however, involved, what was quite uncommon throughout the country, a very energetic determination on the part of managers of industrial schools and reformatories to recover from parents the cost of their children within these institutions. 5,000*l.* were recovered in 1878 in Scotland, and 11,000*l.* were recovered in the same year in England; but that did not represent a fifth part of the expense of those children to the country, and he believed it did not represent one half of what might be recovered from parents, who really were at the bottom of the mischief. The suggestion, again, of Sir Walter Crofton, that in many cases police supervision might be substituted for imprisonment, or, at least, for a portion of a term of imprisonment, was worthy of serious consideration. On the first blush, it seemed to him there were many cases in which the object of the law and the good of society would be better attained by intimating to the criminal that he would not be sent to prison, because that was the worst use that could be made of him; but that the eyes of the police would be upon him, and that he should have to report himself at certain specified periods in order that it might be seen whether he was doing well. That was a suggestion of great value, but there was this obvious objection to it—namely, that if there was to be ostensible police supervision for a person who had fallen only once into crime, unless that supervision were exercised with the greatest discretion and prudence, it would be likely to hinder the success in life of the person so watched. If it became known that such a man was watched by the police; if the policeman were to appear at the place where the man worked, then actual imprisonment would have been a less pernicious form of punishment. If, however, it were exercised with discretion, so that it should not be publicly known, he could fancy no better deterrent from crime in the case of the first offender, whose crime had arisen not so much from depravity as from something very nearly allied to accidental circumstances. Possibly, the machinery of the Prisoners' Aid Societies might be utilised for supervision of first offenders. In Gloucestershire, as they had heard, the whole police force had been turned into officers of the Society; and if such officers could be directed by the magistrate in some way or other, so as to let the first offender know that he was watched, while no one else was cognisant of the fact, there would be all the benefits of police supervision without any of its objections. As to the special question of Prisoners' Aid Societies, they had, he might say, long ago passed out of the region of experiment into that of accomplished facts and of accomplished successes. It would be waste of time to argue that such institutions were desirable; but he must say that one of the most startling facts he had heard that morn-

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ing was that there were several counties in England, and a very great number of districts in Scotland, where no such societies existed. If the effect of that day's discussion were to draw attention to the subject and increase the number of these societies, the time the section had devoted to the subject would not have been spent in vain. The observation had been made that these societies did not require very much money in order to enable them to carry on their work. He could bear his testimony to that fact in two ways. In Aberdeen the Prisoners' Aid Society had been in existence for four years. It was made a part of the Association which was the Scotch equivalent for the English Charity Organisation or Mendicity Societies. The Aid Society consisted of the committee and directors of that association; and was, in fact, a sub-branch of it. By these means they had the use of officers and machinery. The sanction of the Secretary of State had been got to this arrangement, and it was found to work well, both in the way of saving expense and also because they interested in it the whole body of subscribers. Again, the statement that Prisoners' Aid Societies needed little money was confirmed when they considered what their real object was. It was not to give a man a sum of money on leaving prison. To give a man a few shillings in such circumstances was simply to do for him the greatest possible mischief, for he was almost certain to spend it in those stimulants of which he had been deprived in prison. The aim of the Society was that from the time they entered the prison, and for some time after they left it, such men should find sympathy and encouragement, and a common-sense treatment brought to bear on them which would leave them no temptation to pretend they were good when they were not. There was another function of the Society which involved some little outlay; that was to give a prisoner the chance of a fresh start after he had got into a wholesome, sensible condition of mind. How was that to be done? Not, assuredly, by giving him the unrestrained use of money, not merely by paying his railway fare from one large town to another; but by administering small sums, in a sensible way, which were necessary for his maintenance, and then by using means for getting him into an honest way of living. If this were done, in fifteen cases out of twenty their efforts would be crowned with success. If, under the Act of 1877, Prisoners' Aid Societies were deprived of the assistance of the chaplain or any other prison official, it was, in his view, a great calamity; because if they had not the co-operation and sympathy of all the prison officials, they would not know whom they had to deal with when a man came out of prison, while the prisoner himself was not in any way prepared to be received by the officials of the Society. He could scarcely believe the Executive would insist on any such provision. It was important that the chaplain should, if he is not a recognised official of the Society, at least consider himself bound to do its work. He must say his gallant friend Captain Verney must have been unfortunate in the class of clergymen whom he had met, and limited in his experience, if he did not think that the chaplain was the Society's most important ally. It seemed hard that the Home Office, under the new rules, made it a condition that Prisoners'

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Aid Societies should only administer their funds to those prisoners who had conformed strictly to the prison rules; or, as it had been put, that the funds of the Society should only be given to those recommended by the prison officials. Their answer to that circular in Aberdeen was this, 'We shall only use the funds which you (the Government) furnish us with in the cases of those recommended by the officials of the prison; but as far as our own funds are concerned, collected as they are from private sources, we shall assist such prisoners as we think fit, without reference to your officials.' He did not, he confessed, quite follow Sir Rupert Kettle, when that gentleman said he saw no connection between a man's good conduct in prison and the probability of his behaving well out of prison. If a man behaved quietly and orderly in prison, the presumption was in favour of his behaving in a like manner out of prison. However, there might be cases of nervous creatures who had not conformed literally to prison rules, but who would be perfectly fit subjects for the Prisoners' Aid Societies; and, as he had said, they had adopted the plan of using their own funds as they liked, without any objection on the part of the Home Office. It was of immense consequence, however, that some refuge should be provided, particularly for female prisoners. In Edinburgh, as he had learned from Captain Christie, they had in the Grove laundry a successful institution of that kind, and it would be a great benefit if a similar institution were founded in Aberdeen, under the charges of sensible, good women.

Sheriff Barclay (Perth) hoped the Council of the Society would be able to gather from what had been said some suggestions that could be formulated and forwarded to the Secretary of State with regard to the Prisoners' Aid Societies. He was struck with the remark of Sir Rupert Kettle that the societies wanted to be let alone. The 4,000*l.* which the Government had granted put him in mind of the maxim, *Timeo Danaos et dona ferentes.* It seemed to him a sorry bribe to be distributed over the counties of England and Scotland. It reminded him of the answer made by a body of merchants to a Prime Minister of France. The statesman asked what was the best thing the Government could do for their interests. The response was, 'to leave us alone.' He was certain, from experience, that these Prisoners' Aid Societies were very useful, but the work, he thought, must be very much undertaken by individuals. Lord Kinnaird, who might be termed the Shaftesbury of Scotland, found great difficulty in organising an aid society in Perth, but he commenced by getting a small society in Dundee, from which centre, by the help of a very energetic agent, the business of that town, as well as of Perth, has been transacted. What we did in Perth was to write to the agent in Dundee, telling him that a prisoner who had been discharged was to arrive there by a certain train. The agent was thus able to meet the man, and, as a rule, was most successful in finding work for him. Indeed, he had heard that murmurs had been made that the agent had been more successful in finding employment for discharged prisoners than idle and indolent people could find for themselves. One thing, however, they had recently lost. Formerly they had Prison Boards and some share of

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local government. For himself, he did not care much about centralisation. He must confess that, just now, our prisons were in a very anomalous state. Under the old system the members of the board visited the prisons regularly and did a great deal in the way of finding work for the prisoners; but now there was a centralised board in Edinburgh, and every order came through them from Whitehall through the Secretary of State. The result was that those who once visited the prison had no longer power to do so, and their means of doing good was thus done away with. The fact was, he doubted very much the expediency of abolishing the old Prison Boards. He entirely agreed in the impropriety of giving money to a person when he or she passed from the prison gates. Objection had been taken to the distribution of money by the chaplain, on the ground that it was bad to mix up religion with charity; but the chaplain, to his mind, was the very best person to distribute money, knowing, as he did, the characters of the persons with whom he had to deal, and having at the same time an opportunity of finding them work. In one instance he was delighted to observe the extended operations of a prison chaplain. That gentleman traced the prisoners wherever they went, whether at home or abroad, and kept up a correspondence with them which was most important in its results. As to police surveillance, he doubted exceedingly its propriety. A man's independence was much impaired when he knew that his steps were dogged by the police, and that in the locality where he resided he was looked upon as a suspected person. He considered that the mark system altogether required revision, as it frequently occurred that it was no true criterion of *character* but only of *physical power and energy*.

The Rev. W. Graham (Newhaven) thought they were all at one in regard to the necessity of Prisoners' Aid Societies; and that they could do their own work unaided by Government. Some twenty-five or thirty years ago, while acting as interim chaplain of Ayr prison at a time when such societies were not thought of, he was struck by the remark of a prisoner, who said that they would all thank God if, when they came out, they could be put on board a ship and sent to some place where they could begin life under new circumstances and new influences. As to juvenile crime in Scotland, he wished to draw attention to this fact, that a boy or girl before being sent to a reformatory was committed five or ten days to prison. He considered that an attempt to change the law in that respect should be made, for such incarceration stamped a boy for life with the criminal mark. In regard to females particularly, he considered it a great misfortune that they should be sent to prison on short sentences for very small offences. He blessed God that he had lived to see Prisoners' Aid Societies doing so much good in the way of rescuing helpless prisoners when they left gaol.

Mrs. Meredith (Nine Elms Mission, London) said her association held a peculiar position with regard to female convicts, having a certificate from the Home Office, since Sir George Grey was Home Secretary, as a 'Discharged Prisoners' Aid' to the women's convict

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prisons. But their area of operations had been widened; and they now took in women from any prison, whatever the length of their sentence might have been. With regard to the gratuity money of the female convicts, there were great difficulties. The Ladies' Association complain that they have not enough discretion allowed them in this matter: they could not withhold it from the undeserving, however disgraceful their conduct might be—a point, by the way, which had not yet been touched upon. A woman, for example, may earn 4*l.* or so in prison; and that sum will be paid over to the Ladies' Association, to the discharged prisoner's credit. The women could demand it when they pleased; and they invariably do so as quickly as possible on liberation. The Ladies' Association use all their influence to induce them to reserve this fund for time of need; but they dispose of it, usually, in drink, sometimes returning to prison before it is all spent. The possession of this money was really a disadvantage to the women out of penal servitude, as compared with the women who have no money on release from shorter terms. The association finds that those who are compelled to earn as much as feeds them, and have no resource but to work, become more amenable to its influence than those who have money at command; she (Mrs. Meredith) recommended that they should prove themselves able to take care of it before it is put in their possession. Great good would be the result if that rule were generally observed. The Association manages to get the women work—about sixty of them are found employment every day —and any of these women who are really doing well are lodged in families in the neighbourhood. In two or three parishes they keep to the circle of families in which they are boarded. In one metropolitan district over 600 have been placed out in this way. The police observe that it is not celebrated for women being brought before the magistrate. If these women, however, leave their lodgings, the association has done with them. The society refers cases when needful to the police. They have official correspondence, too, with the prison authorities and chaplains. At one time when there was a mission organised by the Church all over London, the criminal classes were not forgotten. In those parishes where the criminal classes live in large numbers, there were meetings for discharged prisoners, which were addressed by the prison chaplains, and nothing could exceed the touching effect of these gatherings. In many cases the police brought these poor people to the place—on one occasion, indeed, in a City Mission room in Golden Lane there were about 200 women present, and the police helped to pour out the tea, and were most sympathetic in the effort which was made. The interest of the prison chaplains must be cultivated by such movements as this. She considered that connection between them and societies helping the prisoners must be kept up, though it may not be well to have official ties in the matter. Prisoners' Aid Societies are, moreover, in a transition stage. She would rather have nothing to do with the money allowed by the Government; and would prefer to depend on voluntary contributions for the relief of ex-prisoners. When a woman has this prison money, she is always uncontrollable. If she wishes to get it to lay out, and is refused, she

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breaks the windows till she gets it; she would be much better wholly dependent on the society's charity, and wise treatment. Police supervision for these women is an absolute necessity. She had never known a case yet where the fact of a policeman calling on a discharged prisoner had lost him or her a situation. The contrary, indeed, was the case. She was in favour, however, of a female agent calling upon women, as it was her opinion that the latter would be greatly advantaged by the moral support and advice that would be tendered to them. That was done in France. A competent person visited the French discharged prisoners, even in this country, followed them, and found out what they were doing. The extent of espionage in foreign systems would not be popular in England, but the visitation of women on some such plan would be very valuable. In regard to Aid Societies for men, she thought that they were worked with too little moral suasion. Criminals were very often anxious about their spiritual concerns, and it was important to get them to attend the ministrations of some church or other. Her own society is not denominational. The Bible is read three times a day in the Mission House, and the women's attendance on these exercises is the chief means of benefit the society can give them. They are always willing to listen to religious exhortation. The men had wished to attend these meetings, and were sometimes permitted. Prisoners' Aid Societies have now to meet the advance of education. Sometimes the women who came out of prison were able to speak two or three languages. In such cases the difficulty was to get them employment where they could remain under supervision. It was a great advantage to such a class to get them mechanical work. They required more supervision than the rougher class of criminals. The instant they were removed from good influences, and mixed up with people who did not know them, they began to lose ground. Some friends said that funds were not wanted for this work. That was not, however, her own experience. She herself had to look for money to the public. Even now her society wanted money for buildings. Unless a Prisoners' Aid Society had a local habitation, it was impossible to work it. In furtherance of the objects of her society, she had from time to time got money which had enabled her to establish the Prison Mission Laundry, a business now self-supporting. The whole business is done by prisoners, and the only persons in the establishment who had not been in gaol are the heads of the departments. When the women became trustworthy, they were even sent on messages, and employed in various ways. Sir Walter Crofton and others had urged the desirableness of keeping the discharged prisoners in view; but her experience was that they kept the Nine Elms Association in view! They cling to their friends, and do not try to get out of sight. With very little difficulty, communication is kept up with them. The expense of maintaining the agency, and the central establishment organised for the purpose, gives the Prison Mission its work, and it is a very arduous one.

Miss Downing (Vigilance Association, London) contended that the Act of 1877 had operated most injuriously, and if the Section had come to any practical conclusion it must be in the direction of

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seeing whether they could not form a committee and endeavour to persuade the Government to repeal its paternal legislation and allow Prisoners' Aid Societies to work in their own way. It was extremely desirable, for instance, that they should get rid of this mark system, for it had been proved to be injurious in every sense of the word. She quite agreed that one could not judge of a prisoner's conduct by what he did in prison. The habitual criminal, who was up to the games of the prison rules, was able to get his marks easily, and so have an advantage over the poor prisoner who, through carelessness or timidity, was unable to conform to the strict letter of the regulations. There was a good deal of truth in the remark that since 1877 Prisoners' Aid Societies had not been so well supported as before that time. Prior to the passing of that Act the visiting justices had a great deal of power, and took much more interest in the prisoners than was now the case. Recently she had had a conversation with a magistrate in Nottinghamshire, who confessed to her that he now took very little interest in the prison. He felt it his duty occasionally to visit the prison; but if he saw anything wrong, he was powerless to apply a remedy. Everything was settled by the central authority in London. If the result of a committee being formed were to get back the local jurisdiction of which she had spoken, there was no doubt they would awaken a renewed interest in Prisoners' Aid Societies. It was most important, she considered, that there should be women deputed to visit female prisoners. She could not agree, again, with any scheme of emigration. Captain Verney had told them his experience of emigrants. His remarks stood to reason. If she herself had committed a crime and had been imprisoned, she would feel most thankful to any one who would give her a fresh start in life, but not among those who knew she had committed a crime. Any emigration scheme would have to be under very careful management, and the clergy perhaps would be best able to judge whether a person was likely to lead a good life if removed from the scene of his past misdeeds.

Baron von HOLTZENDORFF (Munich) observed that the different suggestions made for promoting the efficiency of discharged Prisoners' Aid Societies, though evidencing varied opinions, yet made plain the prevailing spirit of humanity which actuated those present. On the Continent the prejudice against women taking part in the work of these Societies had disappeared; and if it did exist, what had been said by the ladies that day would have dispelled any such prejudice. From a Continental point of view Prisoners' Aid Societies were not to be denominational in their organisations. Experience showed that the true spirit of religion was opposed to crime in general, and it could not be shown on the Continent that there was a proportionate difference in criminal acts among the members of different creeds. The narrow sectarian spirit which prevailed in certain Continental countries could do much to hinder the progress of such a work as they were discussing, and he agreed with their President in holding that it ought to be voluntary work, apart altogether from Government interference. He was not at all prepared to recommend police supervision, for the word police doubtless sounded discreditable. At the same time, he did not think that a police system

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would involve officialism in a bad sense. He was delighted to hear of the Government subsidy which had been spoken of. He believed that such an example would bear good results in the case of Continental statesmen. It was to him a very important fact that the grand reform they were discussing could only be carried out to its full extent by voluntary effort; crime being like a battle field, requiring not only the presence of military surgeons for the treatment of wounded soldiers, but also the assistance of voluntary help given by the Red Cross.

The Chairman (Sir JAMES WATSON) said it had been observed that the best way of checking crime was to nip it in the bud. He was certain all of them would coincide with that view, and on that subject there would be ample room for discussion at subsequent meetings. To his mind Prisoners' Aid Societies were a link in the chain of those measures which were necessary for the repression of crime. In regard to the Act of 1877 he had come to the conclusion that it was working in a fashion detrimental to these Societies. The mark system was especially objectionable, as marks could more easily be obtained by the old and knowing prisoner than by the young one, whose carelessness might deprive him of them altogether. And not only was this the case, but in endeavouring to obtain these marks the prisoner was led to neglect everything else. Cases, indeed, had been reported to him in which reading and general education were altogether neglected in the endeavour to stand well in the matter of marks. He was convinced that the system of giving gratuities on leaving prison, with which the prisoner was allowed to do what he liked, led the recipient to the public house, and thence, by a natural process, back to his old haunts. The prohibition against the chaplain's services was very objectionable. The education of the prisoner must begin when in gaol, and it was only those who while there evinced a desire to reform that came under the scope of the Societies' operations. There were many persons so hardened in crime that it was almost impossible to make anything of them; but, by a process of careful selection, particularly of those new to crime, they had in Glasgow succeeded with those they had dealt with in reducing the number of those returning to prison to 10 per cent., and in the case of convicts to from 36 to 50 per cent. As to the question of how the efficiency of these Societies could be promoted, he agreed with Sir Rupert Kettle that it was not so much money as sympathy that was wanted. If once the prisoner were convinced that a real interest was taken in his welfare a potent influence would thereby be obtained over him. In Glasgow the plan pursued was to get hold of the prisoner before he left gaol, or mixed up with his old associates, place him in employment, and let the employer know all the circumstances, so that there might be no mistake. They found that employers generally kept the secret wonderfully well, and that the discharged prisoner worked among the others without anything wrong being known of him. The consequence was that as long as he chose to do well he had an opportunity of finding work. In regard to the cost of such cases to the Society in Glasgow, as far as he recollected each case averaged, perhaps, double the amount mentioned by Sir Rupert Kettle, or about 10*s*. or 12*s*. That, however, was a very small amount indeed for the good done, and so it

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happened that the Society required but a limited income to carry on its work—50*l.* or 60*l.* a year. As to money, a larger sum might be necessary for the establishment of refuges. In Glasgow they had more than one refuge for females, and he quite sympathised with Mrs. Meredith in her contention that it was indispensable something should be done in the way of providing refuges for females. He hoped that the result of this discussion might be the passing of a resolution which would encourage the ladies of Edinburgh to complete the refuge which they had commenced. It was very desirable that any money a prisoner earned should be placed in the hands of the Prisoners' Aid Society. The police supervision, again, which had worked so well in Gloucestershire, would be exceedingly difficult to carry out in large towns. He believed it had been successful in London, but he did not believe it would have the same success in the large towns of Scotland, because many of the police were ignorant men, fresh from the Highlands, and unfit to undertake so delicate a task as police supervision. If discharged prisoners had policemen coming about them it would destroy all their independence of character, and would be prejudicial to the conduct and character of the prisoner himself. With these few words, he would leave any resolution that was to be passed in the hands of the meeting.

On the motion of Sir RUPERT KETTLE, seconded by Sheriff COMRIE THOMSON, Aberdeen, the following resolution was agreed to:

That the Section is of opinion that the carrying out of several of the clauses of the Prisons Act, 1877, which refer to Prisoners Aid Societies, has been found to be injurious; that, in particular, the policy of marks being given to prisoners merely for submitting to prison discipline without regard to other circumstances, and the aid being controlled by the number of marks, has been found to have no beneficial result; and that the regulation for preventing prison chaplains or other prison officials from acting with perfect freedom in connection with Discharged Prisoners' Societies has interfered prejudicially with their operations; that the Section recommend to the Council the consideration of these important questions, with the suggestion that a representation should be made in the proper quarter in favour of the repeal or amendment of the objectionable clauses, so as to leave the societies in the same position for carrying on their benevolent work as they held prior to the passing of the said statute.

SYSTEM OF POLICE.[1]

How can the System of Police be Improved in regard to the Repression and Detection of Crime? By Sir RUPERT KETTLE.

IN considering this question attention will immediately be turned to the Summary Jurisdiction Act, 1879. That Act makes such important changes in the administration of the criminal law that the work of the police in the future cannot be properly discussed without understanding some of its provisions.

[1] See *Transactions*, 1877, p. 314; 1876, p. 361; 1874, p. 304.

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The purposes of the Act are much more extensive than its title imports. It not only enlarges the jurisdiction of courts of petty session by giving them charge of certain indictable offences, but it also greatly enlarges the authority of these courts to inflict, in certain cases, punishments different both in quantity and in kind from those inflicted under previous statutes. It may properly be considered as an Act to diminish the number of imprisonments, and provide other modes of repressing crime. My present object is to show how, through the agency of the police, the Summary Jurisdiction Act may be worked to produce the greatest amount of public good. To accomplish this, police officers must be employed to discharge duties quite different from those hitherto considered to be within the ordinary jurisdiction of a constable.

Permit me to give a short prefatory statement of the general tenour and purport of the Act.

It will be remembered that at our Glasgow meeting, six years ago, I called attention to the injurious effects of what I considered the excessive and indiscriminate use of imprisonment; of using prisons built for felons only for the detention of children, and persons guilty of all kinds of petty delinquencies. I submitted an analysis of the commitment warrants, extending over a period of two years, to the gaoler of the county in which I reside. These warrants numbered 8,188—a sufficient number, and extending over a sufficient time, to enable me to make a fair average for the classification of these prisoners. Staffordshire having agricultural, mining, and manufacturing districts, I thought it fairly represented the classes of our population which most frequently come under the operation of criminal law. In my paper I gave the numbers with arithmetical accuracy. I now adopt the form of percentage for easy memory—the figures given being sufficiently exact for our practical purpose. I found—

Committed	for non-payment of penalties, fines, and costs . . .	44 per cent.
„	for finable offences without option of fine, bastardy orders, fraudulent debtors, deserters, &c.	16 per cent.
„	for trial at quarter sessions or assizes	14 per cent.
„	upon conviction by juries or summarily by justices . .	26 per cent.

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These figures show upon their face the evil which I contended ought to be immediately remedied.

In suggesting a remedy I divided prisoners, to whose cases the remedy ought to be applied, into three groups: (*a*) Those imprisoned as an alternative in default of paying money; (*b*) juvenile offenders; and (*c*) those imprisoned for first offences where sureties for future good conduct could have been obtained. The remedies I suggested were:—

1. That the payment of clerks of petty sessions by salary should be made compulsory, instead of being left to local option; so that the court might deal with the subject of costs without injustice to its legal adviser.

2. That the payment of penalties and costs adjudged to be paid should be enforced as Crown debts, and not treated as formal preliminaries to imprisonment. That where the person convicted had seizable chattels the penalty should be levied; that securities might be taken for the sum to be paid; or that, when it must be paid out of future earnings, it might be made payable by instalments.

3. That for first offences where the person charged could find sufficient bail for his future good behaviour, courts of petty session might release upon bail, and have power conferred upon them to enforce the bail bond in case of forfeiture.

4. That for first offences courts of petty session should have power to order police supervision.

My paper was again read and considered at a special meeting of the Society during its winter session, and was then extensively circulated amongst those engaged in the administration of the criminal law; and, I am bound to say, not always favourably discussed. I have, however, the satisfaction of knowing that those who, during the past five years, have paid the closest attention to the subject have formed opinions similar to my own; and now the Legislature has gone very far in the direction I pointed out. Except as to police supervision, without imprisonment, upon first convictions, all my propositions have been embodied in the 'Summary Jurisdiction Act, 1879.'[1]

I do not desire that it should be thought I have influenced the course of legislation further than by using the organisation of this influential association to concentrate public opinion upon the evil which existed, and upon the specific, practical means by which the greater part of it could be remedied.

The new Act very greatly extends the jurisdiction of

[1] The policy of making the payment of clerks by salary had been two years previously adopted by the Legislature.

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courts of petty session. It enables these courts to deal with offences previously punishable by indictment only. In so doing it enables the court to distinguish between children, young persons, and adults, as to the offences for which they may be tried summarily, and as to the extent and nature of the punishment awarded. It also gives a very wide discretion to these courts of summary jurisdiction as to the sentences they may impose. A person convicted may now be discharged without punishment, or upon bail for future good behaviour; naughty boys may be birched; and, except in case of adults consenting when charged with the serious offences in the second column of schedule (including embezzlement and receiving), the court may in all cases in which it has jurisdiction inflict a fine instead of imprisonment.

I have made this prefatory statement to bring before your minds the very comprehensive and beneficial nature of the new law. For our present purpose, however, we have more particularly to consider those administrative changes which may, and in practice probably will, bring upon the police entirely new—and I may say strange—duties in aiding the repression of crime.

I will take first the administrative changes relating to the procedure to enforce fines, and sums of money adjudged to be paid by any conviction or order. I have before explained that courts of summary jurisdiction now have, with few exceptions, power to fine in all cases. In dealing with fines these courts have now power—

1. To allow time for payment.
2. To direct payment by instalments.
3. To direct that the person liable to pay shall be at liberty to give security, with or without sureties.

These fines and money payments are to be levied, in case of default, by distress: against principals by a distress warrant granted upon application, and against sureties upon summons and hearing. The statute says, 'The warrant of distress shall be executed by or under the direction of a constable,' and lays down minutely a complete practice of distress—seizure, reserved goods, detention, marking, sale, costs, and payment over of proceeds. 'Constable' is only mentioned in the Act in this one instance (section 43), but I presume, since the appointment of parish constables has been discontinued, the officer meant is a police constable.

So far, then, the police will have cast upon them the duties of bailiffs of the court of petty session. It will probably be found convenient in populous places to entrust that

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duty to officers specially appointed and acting under the instructions—and upon the responsibility—of the chief constable; but in the rural districts some one of the police upon ordinary duty will have to execute distress warrants.

When we go a point further, in considering how the new system can be worked, we shall find police officers must discharge duties much beyond those of an ordinary bailiff; or a new class of executive officers must be created. After the accused has been convicted, and the punishment by fine imposed, the prosecutor, who receives no part of the fine, has neither interest nor obligation to pursue the matter further by executing the judgment of the criminal court. It must in practice, therefore, be that some public officer will watch the happening of the default of payment, and then apply for a warrant of distress or commitment of a principal, or a summons to show cause against a surety. This is not a merely ministerial Act, for it is provided that the court may, in issuing the warrant, exercise a discretion upon certain facts before it. The applicant for the warrant must then, necessarily, prepare and adduce evidence (section 21).

Another important duty under this Act will be the issuing, and supporting by evidence, what are called judgment summonses. In cases where the jurisdiction of courts of petty session is used for recovery of civil debts, it may reasonably be expected that a complainant will act in his own interest as a plaintiff does in a civil action; but in case of forfeited sureties the Act directs that the penalties shall be paid by the surety as a civil debt (this being one of the 'other cases' in clause 3 of section 23). Again, therefore, in this case, as the complainant has no pecuniary interest in the result, some public officer must, if proceedings are to be continued effectually, issue and serve a judgment summons, and at the hearing bring evidence of means and ability to pay, as in cases under the Debtors Act, 1869.

I will now explain—as succinctly as I can—the provisions of the Act relating to recognizances, upon which police business will arise. Hitherto recognizances entered into at petty sessions could be estreated only at quarter sessions. This process was so dilatory and so expensive that bail taken in courts below was practically useless. It had become so well known that forfeiture was never enforced that 'going bail' became a mere matter of form. It afforded not the slightest security for the future maintenance of the law. By the Act we are now considering all this is changed. The operative part is sub-section (2) of section 9, which enacts that:—

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'Where a recognizance conditioned to keep the peace, or to be of good behaviour, or not to do or commit some act or thing has been entered into by any person as principal or surety before a court of summary jurisdiction, that court or any other court of summary jurisdiction acting for the same county, borough, or place, upon proof of the conviction of the person bound as principal by such recognizance any offence which is in law a breach of the condition of the same, may by conviction adjudge such recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or sureties, or any of such persons, to pay the sums for which they are respectively bound.'

Sub-section 4 provides that the sums paid under forfeited recognizances shall be paid to the clerk of the court, and be applied in the way in which fines not specially appropriated are applicable. This power to estreat recognizances upon forfeiture, and to levy the penalties, is one of the most important, and I believe will be found in practice to be one of the most useful, provisions of the new Act. But like taking and enforcing security for fines, it will require either that our present police officers should discharge new duties, or that a staff of officers of a different class should be created. I need not again go over the practical details of these new duties. Generally, I may state, there will be the application to the court to estreat, the issuing, and the execution, in manner prescribed, of the distress warrant, the accounts and paying over of the proceeds.

I leave the fourth of my former suggestions—police supervision—to be dealt with by my friend Mr. Barwick Baker, who will speak with high—I think the highest—authority upon that subject. I am still of opinion that in some cases, where the accused is a man or youth who has not become an habitual criminal, and who has neither parent, employer, nor friend, to be bound for his good behaviour, it would be merciful to the individual, and not injurious to the public, to place him for a time under police supervision, instead of sending him to jail. I believe that in doing this you give him a better chance of redeeming his position than he would have if you inflict the taint with which a prison inevitably stains a man.

In making these observations upon the policy and practical working of the Summary Jurisdiction Act, 1879, I have borne in mind that the Act is an enabling Act only. It does not take away any jurisdiction which justices at petty session previously had to commit to prison. It merely gives them an

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alternative jurisdiction, by the exercise of which they may, if they think fit, so to speak, winnow out such light cases as are not fit to be dealt with by imprisonment. There will not, perhaps, be wanting those who will suggest to justices that the old system is less troublesome; that when a man is committed to gaol, so far as the bench is concerned, he is disposed of, until his next appearance before it; that the newly devised plan is more dilatory, and, as the Government now bears the cost of prisons, it is, to the local taxpayer, much less expensive.

These are, in a certain sense, disadvantages which lie upon the surface. I am afraid I may have created in the minds of the lay members of my audience an impression that there are other disadvantages which lie below the printed pages of the statute: and that it will be necessary to institute a technical and complicated executive system effectually to carry out its enactments. I beg to assure those who may have felt these fears that—although the necessary procedure for executing the new law may appear intricate and troublesome—in practice it will be found more simple than it strikes us upon a first impression. Power has been taken to frame rules of practice, and if these rules are, as they ought to be, a short and simple code of procedure, with forms of documents, the execution of the new system may be made not only intelligible but simple. I express this opinion upon the experience of more than twenty years of executive business similar to that by which it is proposed to recover fines and levy forfeitures. I refer to enforcing the judgments of county courts. Upon my experience I say that matters of form ought to offer no impediment to the beneficial working of the new system through the existing body of police officers.

I will not refrain from expressing some apprehension that to carry out the Act in its spirit and intention will, at first, impose much additional trouble and anxiety upon magistrates, and find more work for the police. Probably the new jurisdiction will not be applied at once to all the cases for which it is intended. It may well be that benches of magistrates will proceed tentatively, and use their new authority in a portion only, and those the most fit, of the cases which come before them. I venture to express my confidence that, however great the difficulties may be in the first instance, magistrates will take upon themselves the responsibility of fully and fairly carrying out the law—that they will, in the language of our old jurists, 'amplify justice.' They are not called upon to accept any new, speculative theory in national law. The

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remedies enacted to abate an obvious public evil of crowded prisons are only a revival, in a modern form, of the ancient constitutional principle of *frank pledge.*

I do not desire, however, to rely upon venerable precedent to commend the new system to the favourable reception of magistrates. I believe, as a matter of principle, that it is the duty of every citizen, within reasonable limits, so to guide and control persons under his natural influence that they shall not become dangerous to his neighbours; and I believe that this duty ought to be enforced by penal sanction. I see no moral difference, except in degree, between the man who by his negligence of things causes a neighbour to lose his health, and he who by negligence of persons causes his neighbour to lose his property or his peace. In the former case our public policy for many years past has been to watch more closely and be more active in compelling citizens to discharge their individual duties. In the latter case, on the contrary, the State undertakes more and more every year the duty which the subject ought to perform. If a man allows his house-drains to become dangerous to the community, the law steps in and compels him to abate the nuisance; if the same individual has a boy who is dangerous to his neighbours, the State takes the trouble off the father's hands and shuts up his disobedient son in a prison.

This erroneous course has been pursued to such an extent that we have, in the result, so multiplied this form of punishment that its influence has greatly deteriorated. Imprisonment has become so familiar to the minds of the careless and the ignorant that it has lost much of its deterrent influence; its use has, so to speak, multiplied itself by user. We seem now to have come to a deadlock. We cannot go on imprisoning as heretofore without entirely remodelling our prison system. The discipline which would be proper for the twenty-six in a hundred, before referred to, who are felons, cannot be the best discipline for the seventy-four who are petty delinquents. We have already three classes of prisons: convict prisons, local prisons, and reformatories. If imprisonment is still to be the only criminal sanction, we must, to satisfy the requirements of public opinion, either have several kinds of discipline in the same prison, or establish other classes of prisons in addition to the three we already have.

I do not censure anyone for leading us into the embarrassing position I have described as a deadlock. The fact is, in this, as in other branches of the executive system of this constitutional country, we have gone on under the guidance of successive

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governments, doing what seemed to be most expedient to meet necessities as they arose. We have not, as autocratic governments do, promulgated theories, and bent all circumstances as they arose into conformity. Now we must in this, I again say, as in other branches of our executive system, pause, look frankly at our position, and promptly and boldly adopt some means of remedying that which has gradually been allowed to grow into the proportions of a great public evil.

This has been attempted by the new Act. The legislature has now provided a rational alternative to imprisonment as a means of enforcing obedience to the law. It has entrusted magistrates with authority to substitute fines for imprisonment, and to make fines a real punishment—to receive sureties and to enforce sureties for future good behaviour. These provisions will, if properly worked, not only reduce the number of commitments, but will enable those who are primarily responsible for the moral conduct and wellbeing of the young or the wayward to undertake, and bind themselves to discharge, social duties which at present rest upon moral obligation only. For years—I might say for generations past—these duties have been so much neglected that they are almost forgotten. The State seems to have so persistently undertaken a class of duties which properly belong to the individual that a dependence upon the law has become habitual—so habitual, indeed, that the most ignorant and careless of our fellow-subjects complain if they are called upon to contribute to the maintenance of their disobedient children whilst subject to reformatory discipline. The ground-thought of these people is that the State should bear the whole trouble and expense of correcting evil habits. I foresee, therefore, that magistrates will be much discouraged in the administration of the new law. They will be met with an unwillingness voluntarily to undertake responsibilities which they have no power to impose. Still there will, I trust, be numerous cases in which men will—rather than accept the alternative of seeing a son, a brother, or a servant guilty of some light offence go off in the prison van under the eye of his neighbours—undertake the responsibility of watching the delinquent, and for a time keeping him within the pale of the law.

I think the undertaking for good conduct secured by a penalty would, in the case of children, remove much of the objection now made to corporal punishment. The rod would be grasped by the proper hand. I think a resolute father who felt his bond in peril would not hesitate to inflict upon a naughty boy what in the school playgrounds is called 'a brush-

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ing.' No one would be injured by the change. A man who rules his own household becomes more able to exercise authority, and more apt to obey it, than one who is always relying upon extraneous help—it is only the weak who cry for assistance.

Admitting all this, I know the proposed change can only be brought about by slow degrees. I think it may perhaps be found necessary to carry further the principle recognised in the Reformatory Acts and the Elementary Education Acts, and to entrust courts of petty session with authority to deal with parents who refuse to incur any legal obligation to look after dangerous children. We must proceed tentatively, and it is well that, in the first instance, we try the effect of giving authority to courts to make legally binding an obligation voluntarily incurred to superintend a delinquent.

Whatever patience and perseverance may be required to give the new system a hopeful commencement I know our magistrates will bestow. The responsibility is co-extensive with the authority. In the case of lay magistrates the responsibility is the more onerous from the technical nature of the authority to be exercised. In such a case, it is sound public policy—indeed it is the duty of the Government—to render the administration of the law as little embarrassing as possible. All judges ought to know the exact effect of the orders they are called upon to make, and how such orders are to be executed. The practice under the Act should be framed at once so as to leave as little as may be to be righted by experience—that is, in other words, by experiment and failure. If lay magistrates become dissatisfied with the working of the new provisions from their complexity, the public will for some time be deprived of the advantage of the contemplated improvement in the administration of our criminal law.

The establishment of popular and practical regulations for carrying out the new Act is the next step to be taken—and a very important step it is. Apart from subjects properly cognisable by lawyers only, there are two matters which I think this Association will do well to entertain when considering how the system of police can be improved in regard to the repression of crime:—(1) To what extent, and how, the police should be employed as bailiffs and executive officers under the Summary Jurisdiction Act, 1879; and (2) What fees should be charged so as to make the new system self-supporting, without being pecuniarily oppressive. These two subjects I commend to your consideration.

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On the Same.

By T. Barwick Lloyd Baker.

I HAVE now been for several years in correspondence with many foreigners on the subject of Police, and, though I may be prejudiced, I am inclined from all I hear to believe that the police of England are more efficient in the repression of crime than those of any other country. Valuable as detection is, its only value is as a means for the repression of future crime. This, however, if true, should by no means incline us to fold our hands in content, but should inspire us with a keener desire to go still farther ahead to raise the police still more to the position they ought to hold as respected and honoured officers of the State.

The character of M. Javert as drawn by Victor Hugo in *Les Misérables*—the instinct which impelled him to attack all criminals as a terrier does a rat—not from any distinct idea of saving the farmer's corn, but from the pure love of worrying an enemy—is probably overdrawn for any country or time, yet it may serve as an example of a feeling which ought to be carefully guarded against. This feeling is probably not extinct anywhere, but it appears to exist in a large degree in many countries, while here it is carefully repressed and has become rare. I believe the reason of this to be (and most of my foreign friends appear to agree with me) that ours is more of a civil force, and composed of men who are more of citizens and less of government agents than those of other countries.

The principles and the reason for punishment are so rarely discussed that they are often misunderstood or lost sight of. Suffer me to state what I believe those principles to be.

I think I may assume that our object in punishment is not retaliation for the past, nor a wish to punish for our own pleasure, nor even the wish to protect the honest from loss, for the sums stolen in England are far less than the cost of prisons and prosecutions—but chiefly the protecting our weak brethren from the temptation that might otherwise overcome them.

If so, what is called severity or mercy should have no place in the award of punishment. The greatest mercy is to keep a man from crime; the greatest cruelty is to allow a man to continue a course of crime when you might prevent it. A judge will study to give just as much punishment as will convince the prisoner and others that the pleasure of the crime is more than counterbalanced by the pain which follows it. A surgeon

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who, from feelings of compassion, refused to cut deep enough to cure the evil, would be mistaken in his intended kindness. But, in dealing with crime, the case is far stronger. Here we have the duty not only of curing the individual who has fallen, but of lessening to others the temptation to fall. This is the more important of the two objects; as we found in the first years of our reformatory work, when, though we received less than 1000 children per annum, we lessened the number convicted by nearly 6000 per annum, and thus showed that the effect of prevention had nearly six times the effect of the cure.

Nevertheless our object in the truest mercy should be to prevent and cure with the least possible pain or deterioration that we can give, or in fact, as our old watchword has it, 'The maximum of deterrence with the minimum of pain.'

In carrying out this principle to the greatest advantage a good police would be our most valuable agents.

Hitherto, nearly the only idea of punishment commonly entertained is imprisonment; but I think that any who, like myself, have been in the habit of visiting gaols and watching the effect on prisoners must have come to the conclusion that the punishment is a most unsatisfactory one. It is a very heavy expense to the honest, costing last year, in spite of the reduction of 14½ per cent. by the late Prison Act—above 428,800*l.* a year. The pain it inflicts on persons of different natures is most unequal. A dull, idle lout will almost sleep through a term that will be nearly distraction to a nervous, sensitive man, and I am inclined to believe that generally the man of good intentions, who has not a depraved mind, but has fallen from weakness, suffers more from its effect than the criminal-minded man who ought to suffer most.

It keeps a man in idleness—for the work we can get out of short-sentenced men is very small; he is fed, warmed, clothed, and ventilated without the least dependence on his own exertions, and he comes out weakened in body and mind, and less fitted to cope with the difficulties that naturally and fitly surround the discharged prisoner. A very short imprisonment indeed, from a week to a month, for the first time may do good as a simple punishment. His diet may be very short, his bed very hard, but he will not become weaker, and he goes out with a horror of gaol, and not having had time to become accustomed to it, he carries the horror out with him, and tells his neighbours of the bread and water, and plank bed. His master will often receive him again, rightly believing that one who has done wrong once, and been sharply punished, though for a short time, will be as little likely to err again as many

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who have not so suffered. But a long term of imprisonment, or, what is still worse, a number of repeated imprisonments, form an evil that requires, if possible, a speedy remedy.

I trust that before this paper is read Sir Rupert Kettle will have given some most valuable suggestions for lessening the number now committed to prison for minor offences, and from a paper he read some years ago I have little doubt that the evil of imprisonment in this class may be greatly reduced, and the numbers maintained in idleness, pain, and shame, at the cost of the honest, may be lowered greatly in most parts of England.

I have been told, indeed, by one of great experience that this system will not be easily carried out in London.

It may be so, but with all due respect to our metropolis—its numbers were at the last census under 4,000,000 out of the 22,000,000 of England and Wales—if a measure will benefit the larger number and not hurt the smaller, it is well worth the trial. But there is a second class of prisoners, few, indeed, in number, yet as a matter of right and justice most worthy of our consideration, and I am happy to feel that their cause is in far abler hands than mine. Mr. Justice Hawkins has repeatedly called attention to the case of prisoners committed before trial, not with any hope that such committals may be altogether dispensed with, but that they may be greatly reduced, and has permitted me to use his name and the words of a letter I have just received.

He proposes, in the case of labouring men—and such form the large proportion of the committed—not to call on such an one to be bound in penalties of 20*l.*, with two sureties in 10*l.* each, but, to quote his own words, 'to require them to find sureties in 20*s.* or 40*s.* each, who would take care as far as they could that he would attend pursuant to his own recognizance, which might be in 2*l.* or 3*l.*' He goes on to say: 'I go farther, however, and think that in many cases the accused's own recognizance would be sufficient to secure his attendance on the day of trial, which is all that is required. Of course there are cases in which no amount of bail would be sufficient to secure the presence of the accused, but I do not deal with such cases. The arguments in favour of a free use of the power to admit to bail are irresistible. No man ought to be imprisoned except by way of punishment except in cases of unavoidable necessity. It is a grievous injustice, therefore, to an accused to secure his attendance at trial by imprisonment, if that attendance can be secured by other means, and this even in cases where the evidence of guilt is cogent.'

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The numbers of this class committed for trial—though of course extremely varying in amount—form, I think, about one-tenth of the average prison population for the year.

I have digressed too long from the police; but the treatment, which I believe would be possible and desirable for the third class of prisoners, brings us back to them. Those who are in prison on sentence of six months or more, I believe will be found generally to form about half the total number of convicted at any time in the prison, while the other half is composed of those committed for three months or less; and it is to the longer sentences of six months or more that I would now ask your attention.

In some cases, for the purpose of separating a gang of bad companions, or as a punishment for an unusually serious offence, a long imprisonment must be resorted to, but it is a wretched thing. The acute punishment of the first month is soon over, and then comes a long dull dream of nearly insensibility which is almost equivalent to cutting six or twelve months out of a man's life, and this we ought not to do if we can avoid it. In the far longer sentences of penal servitude the case is different.

There is much earnest work with some degree of association which, when the classification, recommended by the Penal Servitude Commission, and which is already in progress, is completed, will prevent the apathy of a long solitude.

Yet penal servitude, though now widely different from what some imaginative novelists have described it, though it has improved in the last ten or fifteen years almost as much as it did in its change from the old hulks, yet in itself shares with simple imprisonment the evil of having but little test as to the reality of its work. To prove the success of any machine we require to know not only whether the wheels are well fitted and are duly oiled and polished, we want to know what is the quality of the fabric which it turns out, and how it wears and lasts. Penal servitude in England began to give us this test in 1864, when the ticket-of-leave system was first made a reality by requiring the men released on license to report themselves to the police, who were thus enabled to keep a watch over them, and to test for a short time the effect that their punishment, aided by the moral influence of the supervision, had produced. In Ireland this had been carried out many years earlier by Sir Walter Crofton, with a success that has made his name honoured to the present day in every country of Europe and America. Still the time of supervision was not long enough. But in 1868 Sir Walter intro-

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duced to this Association the proposal of placing habitual criminals, as they were termed by the Act of 1869, under police supervision.

I may be allowed to express my opinion on the effect of this measure, having watched it carefully in my own county of Gloucester (which has the tenth largest population of the police districts of England, and which uses the power of police supervision far more than any other). We take great pains to find the antecedents of the persons who come before us, and if they have been previously convicted and have not left prison five years before their present offence we nearly always order police supervision.

Where other counties have on an average 20 per cent. more supervisees than convicts we have 300 per cent. more—as by the Constabulary Inspector's report for 1878 we had 38 licensees under supervision during the year, but 117 under the Act of 1871.

We have, however, advanced an important step farther than this. We give to every person committed on indictment or under the Criminal Justice Act, on his discharge, a paper telling him—'It will be your duty and interest in seeking employment to state honestly to your employer that you have been convicted. The police have orders to tell the truth to any employer in whose service they may find you, but they will, as far as they reasonably can, befriend you in finding work if you honestly tell the truth. You are recommended therefore, wherever you go to live, to tell the policeman of the district. He is very likely to find you out if you don't tell him, and he is more likely to befriend you in finding work if you tell him the truth yourself.'

The orders to the police, however, are that they should not in such a case go direct to the employer, but that they should inform the chief constable, who will use his discretion as to how to inform the employer.

I am well aware that such a system is the very opposite of what is usually considered humane. I can only say that we adopted it five years ago, believing it to be both humane and honest; and the success has been beyond our hopes. The police keep a careful watch on all discharged prisoners, and find that all who are willing to work have—not all, indeed, constant and regular employment, for that is not always, in these times, to be had by men of good character, but—a fair share to maintain them. The inspectors act as agents to the Discharged Prisoners' Aid Fund, and have money in hand to relieve any in real distress, and the sums they find it necessary

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to give are very few and small. There has not been an instance of the police having to inform an employer that his servant had been in prison, nor have we heard of anyone being turned out of his place because his master had discovered the truth. The public and employers appreciate our not conniving at deception, and allowing men of doubtful character to creep into places of trust, and they readily employ such men in ordinary work for a time, and if they live steadily for three or four years their character is considered as fairly regained.

I must urge that, on five years' experience of this system, I believe it to be most humane, honest, and successful. Without this open and fair dealing, the police can hardly be looked upon with the same implicit trust; they cannot exert themselves with the same effect in finding employment for the men, nor can they keep so good a watch on them to detect them if they relapse, as if they were not ordered to conceal the truth.

But a step of immense importance to the character of police supervision has lately been made—so lately, indeed, that it has hardly become known and fully appreciated. For long we have been told that supervision might, indeed, answer in small rural counties, but was utterly unfit for the large towns, and for London would be simply impossible. Within the last twelve months, however, Mr. Vincent, the Director of Criminal Investigations, has taken the matter up—has traced out the persons who have been sentenced to supervision with such success that, out of above 1,200 now on the roll, there are not above thirty who are not regularly reporting, and few others whose motions are not under careful watch; yet this is effected with such care and good feeling, that the Royal Discharged Prisoners' Aid Society, who have hitherto strongly objected to all police interference, have recently placed their licensees under Mr. Vincent's charge. The prejudices of London have hitherto been too strong to allow them to warn the prisoners, as we have done, not to conceal the truth; but let us hope that this too will come in time. Meanwhile Mr. Vincent's extraordinary success has shown that police supervision is applicable to every civilised district in which a good police exists.

But if it be found to be so far more generally available than has been hitherto supposed, may we not ere long hope to see it extended?

I have long believed that an Act might with great advantage be passed, enabling, for first as well as second offences and for assaults and injuries, as well as for crimes, a sentence to

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be passed of 'three years' liability to imprisonment;' explaining that the prisoner would only be detained for a fortnight or a month, on scanty fare and plank bed, and then allowed to return to work on condition of his reporting himself *weekly* to the police, giving an account of his work and wages, and bringing a portion, were it but a shilling, of the latter. This money should be applied first towards repaying the value stolen or injury done, and secondly to the repaying the cost of his prosecution and imprisonment.

I say weekly, because we require a punishment, harmless to the prisoner and costless to the public, instead of the weakening and costly imprisonment, but still a punishment, and somewhat that the man will dislike and his neighbours dread; and also because he would more easily bring the shilling weekly than at longer intervals. The value of the money payment, indeed, would be but trifling, but the effect on the man's mind of having to repay what he had taken or injured; the having to report himself weekly, with the knowledge that on a small offence he might be returned to prison for any portion of the three years, would be an exactly fitting punishment.

Such a mode of making supervision itself a punishment self-adapting and deterrent, and long lasting, yet at no cost to any but the offender himself, would appear most desirable, and with a good police would be easily carried out. I believe that in combination with the measures proposed by Sir Rupert Kettle and Mr. Justice Hawkins, thus acting on the three classes of prisoners, it might probably lower the number of prisoners by one half and save the country 200,000*l.* a year; besides, what is far more important, preventing much of the weakening and degrading punishment of imprisonment, and nearly approaching our object of 'the maximum of deterrence with the minimum of pain.'

There is yet, however, one other improvement required in our system of supervision, so important to its completeness, yet so simply and easily made, that we cannot but marvel at the length of time for which it has been neglected. When a person under supervision changes his residence, as he has a right to do, from one county to another, although the first police often write to the second, specially requesting to be informed of the person's arrival, yet this is not always done, and a supervisee may thus abscond without steps being taken to recapture him.

The Home Office, too, and the public through it, have not the information as to the good working of the system to which they are fairly entitled. Both these deficiencies appear easy of supply. The Act specially allows an office of 'Regis-

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trar of Criminals.' If this office were restored, and all chief-constables were requested to send their monthly returns of supervisees in a prescribed form to be registered, and to give notice of any transfers from one police district to another—the work would be extremely small—every supervisee would be traced from place to place, and the Home Office, the magistrates, and the public would be informed of the value of the system, and the way in which it was carried out in different counties, and would be able to compare the success of one district with that of another, and to adopt the system which produces the best result; and this would require no new law, very little money, and would render complete a most valuable system.

To sum up the measures I have ventured to suggest to enable the police to be of still greater service in the repression and detection of crime, as well as lessening the evils and cost of imprisonment, I would name, in addition to the means suggested by Sir Rupert Kettle and Mr. Justice Hawkins—

1st. The warning to discharged prisoners not to conceal the truth, but to regain their character by a course of honesty; and the charging the police to assist them in finding employment; and appointing the superintendents as agents to the Discharged Prisoners' Aid Society.

2nd. The giving power to pass a sentence of (say) three years' liability to imprisonment, only a short time of which would be enforced if the supervisee reported weekly and paid a fine.

3rd. The revival of the office of Registrar of Criminals to receive the monthly (or even quarterly) returns from the chief constables, and to keep an account of the transfers, so as to trace the supervisees in their changes from one county to another—and to maintain a connected record of each to be used in case of a relapse—and to promote generally a communication between the forces.

Mr. W. Henderson, Chief Constable of Edinburgh, also contributed a Paper on the same subject. He pointed out the inseparable connection between this question and the subject of the constitution, jurisdiction, and powers of the Police Court; and he showed that, however well organised or supervised a police force may be, their efforts for the repression of crime cannot be productive of satisfactory results, unless the tribunals before which are brought the prisoners arrested by the police have within themselves, and exercise properly, the means of deterring criminals. He advocated the appointment of judges of police,

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who, besides having the training and experience necessary to deal with all police cases, should also have the time at their disposal to investigate patiently every case coming before them. He also urged the importance of satisfactory evidence being obtained as to the character of all accused persons as to whom there is reason to believe they belong to the 'professional criminal' class, before such persons are dealt with by magistrates. Justice, he argued, cannot be dispensed in a hurry, and the Police Court, like any other well-managed business, should be open during all business hours. To improve the system of police, he suggests (1) the establishment of a superannuation fund, applicable to every police officer in the kingdom; (2) the working of the detective branch of the police system from one common centre, instead of, as at present, the detective department of each police force working independent of all others; and (3) the employment of all this branch as an auxiliary to Discharged Prisoners' Aid Societies, in finding honest employment for discharged prisoners. He concluded by suggesting an assimilation of the various laws at present applicable to different parts of the kingdom, and a remodelling of the course of procedure in Police Courts, believing that the efforts of Prisoners' Aid Societies and kindred institutions will be best seconded, and the greatest kindness shown to the prisoner himself, by making it clear to him that the law will be quick to reach him if he pursues a criminal life, and that each successive offence will bring with it a higher punishment.

DISCUSSION.

Captain VERNEY, R.N., said that the Paper of Mr. Henderson was quite worthy of being classed with the two that preceded it, and it had certainly to himself a most remarkable interest. There was nothing more valuable than to hear a man speak on a subject with which he was thoroughly conversant from a strictly professional point of view. For that very reason, however, it was necessary to take remarks of that kind with some reservation, and weigh them in accordance with the spirit in which they were written. The whole tone of Mr. Henderson's Paper was in favour of stipendiary magistrates, of centralisation of the police, of superannuation to embrace the whole force throughout the country, and, in fact, in every way pointed to a force centralised and controlled from London.—[Captain HENDERSON said that in his Paper there was no suggestion of centralisation, except with reference to one small branch, the detective service. No one was more opposed than he was to the centralisation of which Captain Verney spoke.]—Captain VERNEY said that Mr. Baker, in his inquiries

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in foreign countries, had heard high praises bestowed on the English police force, and ascribed that in a great measure to its being a local force. He would not enter into the discussion of the question whether the Paper did not tend too much towards centralisation, but this he would say, that, without doubt, the danger was before them. There was not the slightest doubt that at headquarters in London the inclination was to centralise. There were four agencies in the hands of the magistrates for the repression of crime: (1) the sentences they inflicted; (2) their control of the police; (3) their influence in the workhouse, where they sat as *ex-officio* members; and (4) the control and management of gaols. Lately this control and management of gaols had been taken from the magistrates—in his opinion a most disastrous measure; and he had no doubt that that was intended as a preliminary towards depriving them of the control of the police. He did not believe that those who had brought forward that measure were at all satisfied with the result. To the particular problem before them, however, he would give one answer to begin with, and that a short one—by rewarding the repression of crime rather than its detection. Let them reward as far as they could those districts and those policemen where there was no crime, rather than reward those who detected crime. Let them cut off crime at its root, and let the police understand (he spoke more of rural districts) that when a crime was committed they ought to know who was the offender: the policeman, that was to say, ought to know the character and antecedents of all the idle and dissolute characters in his district, and should therefore at once be able to put his hand upon the likely man. He ought to be able to say that such and such a crime was committed by one out of (say) four people. He might not be able to bring the offence home to any one of them, but if he had an intimate knowledge of their habits he had a power of repressing crime infinitely more valuable than the power of detecting it. If these few persons knew they were watched, they would find it serve their purpose better either to quit the neighbourhood, or to lead honest lives. A point which had been particularly dwelt upon by Mr. Barwick Baker was the great extension of police supervision. Now, he did not see how this system was to be carried out without further centralisation; and this was what he stood in fear of, that the police would lose their local character, and cease to look up to their immediate local superiors. He feared also very much that if police supervision were carried to the extent advocated by some, that they should get a different class of men in the police; men who were more thoroughly professional, and who would find greater centralisation absolutely necessary in order to be able to follow supervisees from place to place. Again, it had been remarked that magistrates had shown a disinclination to inflict fines, and it was suggested that it was much easier to sentence an offender to imprisonment. But there was another motive which entered into their minds, and that was a feeling of pity for the poverty of the class in question. That was an honourable and creditable feeling, but it was one which was apt to lead people a little astray. They forgot that poverty was a comparative term. Recently he had heard of a man, once in good society, who was in 'a state of the utmost

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destitution,' and yet he found that the poor fellow had 300*l.* a year to live on. If inquiry was made among the poorer classes would it be found that they were so poor that they never entered a beershop? Those people whose poverty induced magistrates to suspend fines and deal leniently with them were people who did not deny themselves drink. That should never be lost sight of as long as intoxicating liquors were a distinct indulgence. As to the question of beating there was no doubt Sir Rupert Kettle was perfectly correct in the experience he had stated, but it was not according to his (Captain Verney's) own experience. Those parents whose children had gone wrong came before him and confessed that they did not know what to do with their boy, that they had tried everything—that they had 'beat him within an inch of his life.' Mothers, again, would say to him, 'I am always beating him.' Now, he ventured to ask these people whether there was nothing better to try. Had they tried the effect of a little love? of a good example, and a kind, sympathising way? He did not at that moment remember a single case in which an unruly child had been brought up where there was anything to show that the child had not been beaten. His impression was that what was needed in these cases was a little sympathy, the directing of energies into the right channel instead of birching them. He deprecated over-centralisation. It put into the hands of the police an enormous power, by introducing espionage and a system of terrorism among those who had once gone wrong. It had been said that to expect a man who had just come out of prison to lead a good life was expecting a moral cripple to perform a task which is often difficult to a moral athlete. There was no greater tyranny than that of over-centralisation, for police under that system were entirely out of sympathy with the people among whom they were expected to repress crimes.

Sheriff Combie Thomson (Aberdeen), who remarked that his experience was limited to the police force of Scotland, said he had listened with very great interest to the Paper read by the Superintendent of the Edinburgh police; and although there were points in it with which he could not entirely agree, yet it was full of most valuable and suggestive matter. There was one thing that must have struck all who heard the Paper, and that was, the position of police superintendents, at all events in Edinburgh, was one which did not crush a man's independence. The superintendent had spoken out his views fully and freely, utterly regardless, as it would seem, as to whether those views were pleasant or not to those with whom he was associated, but simply from conscientious motives. The main point made by Mr. Henderson in the earlier part of his Paper was the desirableness of justice in police courts being administered by trained professional lawyers. As a professional man himself, he felt some little delicacy in speaking on this subject; but, apart from any feeling of that sort, it was a question which experience led him to say was surrounded with very considerable difficulties. He would ask Mr. Henderson to tell him this: in the Police Court of Edinburgh, under Act of Parliament, during six months out of the twelve the presiding judge was a trained professional lawyer, while during the remaining six months the judge

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was a lay magistrate—could the superintendent say that justice was administered with very much better results during the six months during which the judge is the sheriff-substitute, or did he find that just as good work was done by the magistrate? The experiment had been tried for the last twenty years in Edinburgh, and he was not aware that there was a general consensus of opinion that the work was better done by the stipendiary. Fifteen years ago it had fallen to his lot, as *locum tenens*, to sit as a judge in the police court of Edinburgh, and he was certain that Mr. Henderson's predecessor did not think him a bit better judge than the bailie who succeeded him. In the city in which he resided (Aberdeen) he might say there was no general complaint as to the way in which the business of the police court was conducted by the lay magistrates. They were men selected by their fellow-citizens to be town councillors, probably quite irrespective of any qualifications for the office of magistrate, because of their good judgment and sense and breadth of view. They were made magistrates again from motives very remotely connected with any judicial capacity they might be supposed to have, but yet they were not aware of any frequent miscarriage of justice. It was the rarest possible thing to hear that a sentence was excessive or stupidly lenient. In fact, the criticism, so far as he could judge from the newspapers, passed on the work done in the police courts was not a bit more severe than the criticism one saw passed upon the sentences of stipendiary magistrates in other places, or of the professional judges in the police courts of London. On the other hand, the theory of the thing was all against the present practice in Scotland; and there was a growing impression that lay police court judges thought too little of what a sentence of imprisonment meant, and especially of the consequences of a first sentence of imprisonment. The unpaid magistrate, upright citizen and sensible man though he might be, was taken from his business and placed upon the bench, and he was called upon, they might suppose, to sentence a lad or girl of fifteen or sixteen years of age, whose character up to that moment had been unblemished, for some petty offence, and he might send that boy or girl to prison for a period of sixty days. On the other hand, those who had had, perhaps, ten years' experience on the bench and thirty years' experience at the bar, might sentence a man to twenty years' penal servitude—a man who had been twenty times previously convicted, and with whom every measure of reform had been unsuccessfully tried. Which of these two men was engaged in the most serious act? Was it the man who might, by an error in judgment and want of experience, destroy all the prospects of what might have been a useful life, or was it the man who was merely putting the copestone, by a sentence of lengthened penal servitude, upon a long career of crime? The critical nature of that short sentence, the results of it, were immensely more serious and far-reaching than the long period of penal servitude upon the old offender. *A priori*, and in theory, there was no room for doubt that better work might be secured if there was a larger employment of paid magistrates in the police courts. There was one criticism of Mr. Henderson which did not apply to the theory of the system, but rather

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to the way in which it was put in practice. That gentleman spoke more than once of prisoners being brought up in the police court, and sentenced at the rate of one or two in a minute. He (Sheriff Thomson) tried to carry on the business of his court with all reasonable speed, but he never could attain to that degree of rapidity, and he rather fancied that in this matter the Superintendent of Police had been speaking in the language of hyperbole. To him the time, perhaps, seemed to pass more quickly than it actually did, because it was inevitable that anyone with the responsibility of a judge, and dealing with the liberty of his fellow-citizens, should refrain from fully weighing in every case the proper sentence.—[The CHAIRMAN said that Mr. Henderson was quite correct in what he stated. He himself had disposed of eighty cases in the course of a couple of hours.]—Sheriff COMRIE THOMSON observed that that rate, however, was not quite so fast as that to which he had referred, but both statements seemed to him most remarkable. The next point to which Mr. Henderson referred was one in which he entirely agreed with him, and to which it was important that attention should be called. It was that in many cases where a plea of guilty was tendered the magistrate should make it his business to call witnesses, in order that the whole circumstances might be gone into. It was perfectly competent to do so, and in many cases it was highly expedient. It was not unfrequently done in the Supreme Courts, and always with the greatest advantage, in order that the judge might have the opportunity of considering fully the amount and the quality of the punishment which it was desirable to inflict. Again, as to more time being allowed for inquiry as to the antecedents of a prisoner whose previous career was unknown to the police. That was a matter which must be left in almost every case to the head officer of police. As Mr. Henderson was aware, it was perfectly competent in any Scotch police court to remand a prisoner. He believed it to be competent at common law, and he thought he was right in saying that it was competent under the Edinburgh Police Act, to order a remand at least for one week. There were cases in which it was necessary that that should be done; but there were other cases again in which it would entail a very grievous hardship. A man, for instance, was brought up charged with participation in a street brawl, or with an act of dishonesty, and nothing was known of him. He told a story which could not be verified at the moment, and was remanded for twenty-four hours. It turned out, perhaps, that he was a perfectly respectable man, who had been betrayed into a breach of the law, the penalty following upon which would be a small fine. In such circumstances he thought the man who had been kept so long in custody would have some reason to complain. That was a matter which might well be left in the discretion of the head officer of police. There was one other matter on which he wished to say a few words, partly by way of explanation and information to those present who were not familiar with the Scotch system, because it was the backbone of the system, and without which that system could not be fully and fairly carried out. It was this: In counties the police force was under the direction of the sheriff, and the directions of the sheriff were invariably, or almost invariably, conveyed

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to the chief constable through the official known as the procurator-fiscal. In counties this was invariably the practice, so that in any question involving discretion the chief constable had the advantage of consultation with two men, presumably of experience, both of them certainly trained lawyers; and on the principle that two heads are better than one, there was very little chance of a miscarriage of justice. In burghs the theory of the law was that the magistrate came in the place of the sheriff, while the chief constable was under the control of the magistrate through the procurator-fiscal. But in a large city, like Edinburgh, indeed in any large city, it was practically impossible—there was not sufficient time—for the chief constable to consult with the procurator-fiscal or magistrate, and therefore it was highly important that the qualifications of a chief constable should be those, not merely of a practical and experienced policeman of high character, but those of a man with great knowledge of the world and independent character. With such a man there was little advantage to be gained by a consultation with the magistrate. It was of the very utmost consequence that the head of the police should be of great high character himself, and should have that gift—not given to every man—of introducing throughout the whole force under his command a lofty moral tone. Of course, that raised the question whether, in appointing chief constables and superintendents, they were to select practical men from the force, or get what were called 'gentlemen.' Was he to be a retired officer of the army, or a successful constable? It was impossible to answer 'Yes' or 'No' to this. What was wanted was a man who was both a policeman and a gentleman, for the two things were certainly not incompatible. But, above all, what they wanted was a man who should combine with a high moral tone a *savoir-faire* and capacity for mixing on fair equality with those who constituted police committees and local authorities. The difficulty had been alluded to by Mr. Henderson of having in the police force of this country, particularly in Scotland, some power of drill, such as was found in Ireland. They had an intense objection to the military element being imported into the force, which was essentially a civil one; and although he thought it was perfectly right that the police should be well set up, and that they should be able to march, counter-march, and move in a body, yet the military element should not be allowed to go very much further than that. In the same way, people in Scotland were very jealous of anything like espionage or undue interference. That was a matter in which the constables themselves had great difficulty. Frequently they were told on the occasion of a riot that there would have been no row at all had the police not interfered. That was possible sometimes; but the fact was it was very seldom true. In a properly trained police force one of the lessons most earnestly inculcated was that constables were not to interfere until the last moment, but that when they did interfere it should be with good effect. The lesson, however, of forbearance and patience was one that every member of the police force should learn. He would refer now to two other matters. One was the great importance of having a general superannuation fund for the police force. It was all very well to say that you should pay your men

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at such a rate that they could afford to lay by for a rainy day. Of course they should. An ethical proposition like that was all very good and right, but practically it was mere talk. If they paid a man 25*s.* or 27*s.* a week—and that was a very fair wage in the police force—a constable would not be able to save a shilling a week; but if a superannuation fund was instituted it would encourage a much better class of men in the force, and produce a better state of feeling among the men. He had to express, at the same time, his entire concurrence in the suggestion that the detective department in Scotland should be consolidated, and have its headquarters in Edinburgh, or in any other large town. Such a plan would secure concerted action and other palpable advantages. Lastly, Mr. Henderson had said, in somewhat sweeping terms, that the man who would reform the criminal law of Scotland would deserve well of his country. To that proposition no man could say No; and he was sure that all of them who had heard the Lord Advocate's address to the Congress would agree with what he advanced as to the great desirability of the criminal law of Scotland being as soon as possible modified. It was impossible for him (Sheriff Thomson) to say whether the criminal code which had been proposed for England was one that could be adopted purely and simply in Scotland. The Lord Advocate, who knew best, had said that it might; but in any case it would be a great advantage if the criminal law could be codified. At the same time, he did not entirely agree with Mr. Henderson, who pointed out, as to certain cases in which blunders were detected by the ingenuity of the lawyers, that these convictions were quashed improperly. The law was not to be blamed for that. If you were going to send a man to prison care must be taken that the procedure was regular. Let our procedure be simplified, and let it be accurate, because it would be a very sad day when judicial procedure, involving the liberty of the subject, was allowed to be conducted in a slipshod way.

Mr. G. W. Child (Oxford) said that as one of the class of persons to whom a good deal of reference had been made, namely, a county justice, he should like to say a few words on the subject. In the outset he desired to express his thanks to Mr. Baker and Sir R. Kettle for their Papers, because to men like himself they were not only interesting but instructive. In regard to Mr. Henderson's Paper, he might say that he did not exactly see how that gentleman's objections to an unpaid magistrate exactly supported his conclusions. For instance, Mr. Henderson spoke of the extreme inequality of their sentences. Now, once a month on an average there were loud complaints in the correspondence columns of the *Times* as to inequality of sentences; and by whom were these sentences pronounced? Why, by the various stipendiary police magistrates in London. Again, it was alleged that they hurried over cases. He confessed that in the bench to which he was attached—and he had been on two different divisions in his county—he had never seen anything like the hurry which Mr. Henderson described, or anything at all approximating to it, and yet that hurry, to which so much reference was made, took place in a court which, for six months in the year, was presided over by a

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stipendiary. To speak of inequality of sentences and press of work as objections to the unfortunate magistrate was unreasonable. The one would be as rational as the other. He could not help thinking that there was some inequality in the sentences which Mr. Henderson himself dealt out to the police and the magistrate. For instance, one of his objections to the presiding magistrate in the Edinburgh Police Court was that the cases were too often adjourned, while in the next sentence he made an exactly contrary objection, complaining that sufficient time was not given to make inquiries. Mr. Henderson's objections, even if they were valid, had simply nothing to do with the question as between a paid and an unpaid magistracy. Mr. Baker had reminded them in his Paper of Victor Hugo's picture of the French police officer, with his morbid and instinctive antipathy to the criminal classes, and it had remained for Mr. Henderson to show them that the highly developed police officer could show the same instinctive antipathy to a magistrate, as such. Coming to other papers, he found that it was regarded as the fault of the system that so many magistrates looked upon imprisonment as the only punishment. He himself had often found in cases of juvenile criminals that there was a great objection to imprisonment; but in the vast number of cases there was little else to be done. After all, there were but three punishments which the magistrate had at his command. the stocks and pillory being now entirely out of the question. They were fine, imprisonment, and corporal punishment. As to the latter, he asserted, in spite of Sir W. Harcourt, that the whole current of opinion during the last thirty years, whether right or wrong, had gone steadily towards diminishing corporal punishment. There appeared to him to be considerable objections to fines, because in the large proportion of cases if a man was fined for getting drunk or committing an assault, the punishment really fell upon his family. In the same way, when a juvenile criminal was fined, the fine did not come out of his pocket, but out of the pockets of his parents. He was perfectly well aware there were two sides to that question, and no one had made that more clear than Mr. Baker. In a large number of cases it was eminently desirable that the fine should come out of the pockets of the parents. He quite admitted that, but still in a considerable number of instances that did not meet the case. A mischievous boy, say the son of a widow, and earning a weekly wage which went in part to keep up the house, when brought before the magistrates and fined did not feel the money loss so much as his mother. If they could carry out the views of Mr. Baker with regard to police supervision, perhaps that might meet the case, instituting a system, as it would, against which there would not be the same objections as against fines and imprisonment. With regard to imprisonment, he considered that a good deal more might be done by short rather than by long sentences. Long sentences cost the country more, and he doubted whether they had the same deterrent effect as short terms. At present, about the severest punishment for a moderate offence was three weeks' imprisonment, because the prisoner did not come under the same diet and treatment as those did who were undergoing a long sentence. For all first offences, except

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extreme ones, three weeks' imprisonment was much better than a longer period. Again, what had been said about the police and police supervision, in his opinion, pointed to this: that sooner or later a different class of men would be required. It appeared to him that the more that was left to the police, the more necessary was it that policemen should be a higher class of men than could be had for twenty-five shillings a week. If the system of police supervision, to which so much reference had been made, was to be carried out, it would be necessary to consider that point very attentively. The policeman's position was an extremely peculiar one. To some it was extremely irksome. It cut him off, to a large extent, from familiar intercourse with his neighbours, and it placed him in a position in which he required very considerable moral purpose to acquit himself properly. The man who pursued such an avocation properly must exercise a very large amount of self-restraint and other high qualities. He could not but believe, therefore, that if these extra labours, both in quantity and character, were to be laid on the police, they should be obliged to get men of a different class for the post. He did not mean for a moment to undervalue the men we had got, for he considered that a very large proportion of the police were exceedingly efficient and admirable officers in their way. But this in itself led to some danger, for magistrates were often in the habit of relying too much on the *ipse dixit* of the police officer. It was a danger, however, which, like others, could be got over, perhaps, by having a class of men superior to those now in the force.

Major Ross (Aberdeen) said that as chief constable of a Scotch county he might be permitted to make some observations. He desired to point out two things that differed—the difference between the English and Scotch systems, and, next, the difference between the police force of a county and that of a city. What he had to say must have special reference to what he had observed in his official capacity during seventeen years' experience in a county in Scotland. In answer to the question, how they were to improve the police for the purposes of repression and detection of crime, he considered that they might follow, with very good effect, in the lines that had been laid down by Mr. Henderson. In the first place, they must do all they could to raise the character of the men and impart a high moral tone to them. It had been well pointed out by Sheriff Comrie Thomson that a great deal of such reforming influences must be in the hands of the head of the police. He must be a man who had the power eminently to control and command men, to influence men by that secret influence which it was almost impossible to teach to any man. The Government, too, should do all in their power—and they had not done it yet, beyond raising the pay of the police force to a certain extent—to enable the police authorities to get hold of the very best men. It was very properly pointed out, therefore, that, in order to facilitate such reform, the Government should organise a superannuation fund for the whole kingdom, or for England and Scotland by themselves—it did not matter which. Probably, however, one general superannuation fund would be the better method. In this way they would be able to attract

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better men into the forces. It was all very well to say that a man with twenty-five shillings a week should save, but they had got to deal with the fact that he did not save any more than did the man in a much higher position than the police constable, and who had an opportunity of laying by for a rainy day. By saying, therefore, that a man with twenty-five shillings a week ought to save, was throwing upon him a responsibility which ought to be borne by the Government. The next thing to which Mr. Henderson referred was the desirableness of a general detective system. In his own way he (Major Ross) had endeavoured to offer some remarks on our detective system when the Social Science Congress met in Aberdeen. On that occasion his remarks were but fragmentary, and did not fully indicate the whole system as he should like to see it carried out. He had alluded then to the idea of Captain McCall (Glasgow), whose opinion had been that there should be a central detective system. Though not quite clear on that point at the time he read his paper, yet he had come to see now that a general detective system for Scotland would go a great way in improving the police for the repression and detection of crime. In such a scheme he would not supersede the employment of detectives either in city or county. These would have their own system for the ordinary detection of crime. There should be a central office in Edinburgh in which would be gathered the most efficient detectives, men with the specialties referred to by Mr. Henderson, who would, in case of any serious crime, be employed for its detection, as well as for the supervision of the criminal class over the whole of Scotland. They would keep a general list of all such, and be in communication with the county and city police of Scotland, and in general communication with the Detective Department in London. Scotland needed such a system, and it must have it. There should not only be more general co-operation amongst all the cities and counties, more homogeneousness, in fact, but a detective system which should permeate all the corners of the land. He had a case in his mind's eye which illustrated the necessity of what he was arguing for. A crack murder was committed in Glasgow, and the murderer got clear of that city. A circular was sent out all over the counties regarding him, and he (Major Ross) sent out a circular in his own county of Aberdeenshire, the result of which, by a fortuitous circumstance, was the apprehension of the murderer. One of his men in going along the road saw a person who, he thought, had a strong resemblance to the man whose description he had received. The policeman informed him (Major Ross) of this, and upon receipt of the information he resolved on doing what would have been done from a central detective office in Edinburgh, had such an organisation been in existence. The Glasgow police still thought they had the man within a certain radius of that city, although they had used the ordinary precaution of sending his description all over the country; but a central detective department would have been able to send out men who would have followed up the criminal from county to county. The man, as it so happened, went circling within the radius of Aberdeenshire, and, after being dogged during nearly four days, was caught at last. Suppose, however, the mur-

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derer had gone out of the county, he (Major Ross) might have given him up, and allowed the pursuit to fall into the hands of the adjacent county. This incident, he considered, showed the need of some such department as was suggested—not a large force, but a body of picked men under the charge of a chief, who would be responsible to the Lord Advocate and receive instructions from that official. With the experience he had of the men with him, he failed to see what difficulty could arise in employing constables for the work of supervision. They were men with a fair amount of education, and could write out good grammatical reports, which were received by the sheriff, with reference to the criminal informations that came before him. When an order was sent out for further evidence it was written by these men, and for keenness and discrimination he (Major Ross) was quite prepared to trust the majority of his men with this work of supervision. He sympathised with Mr. Henderson in his remarks about the plea of guilty. It was a very great pity that it should not be taken more notice of. For instance, a man was cited to appear at the bar on a certain day, and paid his own expenses. Well, he would say, 'I got provocation, I will plead not guilty'; but when he found out that he had, perhaps, a journey of forty miles back to the court again, rather than go to that expense he would plead guilty. He admitted the correctness of Sheriff Thomson's remark that the sheriff, if the matter were of any importance, would record a plea of not guilty, in order that he might hear the evidence. In a great many instances when a man pleaded guilty in the sheriff court, he was either not guilty or there were some circumstances in the case which, if brought out in evidence, would give it a different aspect.

Mr. William Macdonald (Edinburgh) said he feared that, with only ten minutes at his disposal, he could only touch on one feature of the Paper read by Mr. Henderson—the question whether in Scotland it would be better to have paid rather than unpaid magistrates. He had the authority of the late Home Secretary—Sir Richard Cross—for saying that since the passing of the Appeals Act of 1875 there had been fewer appeals from the decision of unpaid than from paid magistrates. That statement, made two years ago, was, he thought, a high compliment to unpaid occupants of the bench. The reason that he rose to speak against the proposed change was that he could not look upon it without fear. He feared when the moment came that the magistrates of the city ceased to occupy the judicial bench, that moment also their control of the police force would be gone. He had had some experience of police court business, and he could say that, notwithstanding all that had been said of the manner in which business was hurried through, the great fault found with the bailies was that they took too long over the cases. The sheriff invariably disposed of the business of the court in one half the time that the bailie did. There was another point he should like to direct attention to. The bailie sat in the police court in a double capacity—as jury and judge. He sat there as a man who was expected to listen to the evidence, to weigh it and judge of its worth, and then to administer justice; and if it was said that a bailie was incompetent for this task, did it not

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imply that he was unfit to sit as a juryman? The argument was as clear as noon-day. If a bailie was unfit to do what he did in the police court, then he could not be expected to act as a juryman in the higher courts. It might be said that in these courts there was a judge to keep him right. So there was; but if jurymen took anything more than the law from the judge, their places in the box might as well be supplied by twelve wax figures. The jury should take facts from the witness, and the law only from the judge. They might be told, again, that the police court judge had no such assistance; but that was not the case. When the bailie met with a difficulty, he had the Assessor of the City of Edinburgh at his elbow, who was invariably a leading counsel. He had a strong objection to the possibility of power, once acquired, being lost. The legislation of recent years, both Conservative and Liberal, had all tended more and more to place power in the hands of the people, and anything that would tend to lessen that power would be dangerous in itself. The very Act of Parliament which regulated the proceedings in the police court was framed by the magistrates of Edinburgh; and yet, forsooth, they were now asked to believe that the magistrates had not wisdom enough to administer that law. Some notice had been taken by Mr. Henderson of the discrepancies in the sentences passed in police courts. He could only say to this, that if they watched the proceedings of the judges on circuit they would find that the sentences passed on such occasions showed far more discrepancies than those pronounced in the police court, with all its imperfections. To his mind the evil lay more in the sensational reports the public read in the newspapers than in any real injustice done. These reports often lead the mind of the reader away from the real facts. He recollected a case in point which created a great deal of stir in Edinburgh. A paragraph in the *Scotsman* was headed 'Fifteen days for a Bawbee,' and when people read it they began to talk, and say it was a shame a man should be sentenced to that long imprisonment for asking a 'bawbee.' Now, what were the facts? A sturdy beggar, with two convictions upon his guilty head, was brought before the judge charged for the third time with the offence of begging. The two convictions were proved against him, and the judge, like a sensible man, gave him fifteen days with hard labour. The beggar, in retiring from the court, muttered, loud enough to be heard by the reporters, 'Fifteen days for a bawbee!' And so the sensation was created. It was certain that, in a great many cases, the public, as he had said, were led astray by the newspaper reports. Reverting to the main question, he asked the Section not to forget that the judge in the police court had duties to perform there which were to a great extent laid down by statute; and that, therefore, he could hardly err. They had heard of the extreme punishment given by police magistrates; but, all things considered, he thought there was little fear of any serious wrong being done. He had never yet known a case of oppression at the police bar of Edinburgh, neither had he ever seen anything like a desire on the part of the judges, whether sheriff or bailie, to do other than give justice to the accused. Suggestions, however, had been made, which it would be a great blessing to have carried out. In many cases, a plea

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of guilty was tendered by a man who scarcely knew where he was or what he was saying. He also objected to the system of allowing a police constable to relate in court what a prisoner had told him in answer to questions put on being apprehended.

Mr. J. H. WATERSTON (Edinburgh) said that what had struck him in the present discussion was that nearly the whole of the time had been taken up considering how a chief constable could best instruct his men to catch thieves. To his mind, that did not appear to be the best mode of repressing crime—to catch people after they had committed crimes. In Mr. Henderson's Paper a good deal had been said as to the mode of conducting business in the police courts. What he thought that gentleman wished to convey was this—that the police court judges acted very much more from feeling than from any judicial knowledge of either crime or how to deal with it, and consequently the prisoners brought up at the court did not sufficiently stand in awe of them. In the lobby of the Edinburgh Police Court he had heard prisoners repeatedly ask who was on the bench on that particular day, and on being informed who it was he had heard a remark such as 'I wish it had been someone else than him,' the impression of course being that 'someone else' would have dealt with them more leniently. There was one gentleman sitting in the Section that day (Sheriff Hallard) whom he had heard spoken of in the lobby of the police court as a terror to evil-doers, and the remark often made about him: 'I would rather any man was on the bench than the sheriff.' This simply arose from the fact that the sheriff was not accustomed to act from feeling, but from the evidence brought before him. As to the alleged hurrying through of business, he himself had fifty times in his experience seen 100 men and women tried within an hour. He admitted that in that number there might be, say, twenty 'incapables' who were tried, to use a Scotch expression, 'by the lump.' In the case of the remaining eighty, however, he appealed to any sensible man or woman whether justice could be meted out to so many human beings within the hour. As to the question of pleading, it was not an unusual thing to hear a man in the court saying, 'If you don't plead guilty to-day you will be up to-morrow, when there will be two or three policemen against you, and you will then get a double dose. You would be far better to plead guilty and have done with it.' It was not an unusual thing, either, for a man when placed at the bar to say, 'I'm not very sure, but I'll just plead guilty.' He considered that greater facilities were wanted for inquiring into such cases. As an evidence of this he might say that there was a man in Edinburgh who had been committed sixty days to prison with hard labour for assaulting his wife, and who during the last five years had been over and over again at the bar charged with the same offence; but yet this man, who was slowly murdering his wife, through pleading guilty, only got sixty days because there was no way of getting at the evidence in the case. This could be effected by the judge not accepting a plea of guilty, although the process would take a longer time. In regard to the magistracy, it was plain that if those who sat on the bench had other business to attend to, they could not devote the

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necessary time to the work of the court; but if more time were devoted to each case, and evidence led, they would be more likely to reach the cause of crime, and dispense justice properly at the same time. If a man would insist upon spending his earnings at the public-house instead of on his family there should be some way of getting at the root of the evil. And he considered it would be a most beneficial system not only to thrash and imprison the man who thrashed his wife, but the publican also who made him drunk and was the cause of his crime.

Mr. Charles Scott, Advocate (Edinburgh), said he wished to make a remark or two with a view of doing justice to Mr. Henderson, whose meaning had been very much misunderstood by several speakers. He did not understand him as making any objection to the existence of unpaid magistrates. He should be sorry indeed to see the unpaid magistracy extinguished, or even diminished. He had had very long and ample experience with criminals, from the murderer down to the pickpocket, and in every court in the county, from the highest to the lowest; and therefore he thought he might say a word or two as to the administration of the law in these different courts. No doubt there was an advantage in a judge having some knowledge of the law he administered, but if they had a bailie or justice of the peace of sound judgment and humane principles he very soon acquired experience, and was sometimes to be preferred to a young lawyer who had not the same experience or the same sound judgment. What he understood Mr. Henderson to say was this: that, owing to the way in which the police courts with which he was acquainted were conducted, there were certain objections to them which might be removed. Mr. Henderson's remarks would not apply to the same extent to justices of the peace, as in a county the justices had ample time at their disposal. It was no doubt the case, however, that in some large towns police court cases were hurried over with scandalous haste. That very morning, he was informed, thirty-two cases in the Edinburgh Police Court occupied fifteen minutes—just half a minute to each case. So far as that was concerned, there was a grievance to be removed. It had been said that for six months in the year the business was transacted by sheriffs, and one of these gentlemen—Sheriff Hallard—was among them that day. On the other hand, he noticed a magistrate (ex-Bailie Lewis) whose conduct of the court he had often admired, and he certainly thought it would not be to the public advantage if the services of such gentlemen were no longer taken advantage of. It was perfectly plain that Sheriff Hallard, or any other sheriff, had not time to devote to the police court, overwhelmed as he was by other and different work. This state of matters, however, could be remedied, and that by having relays of magistrates to try the several cases. It was impossible to dispose of 100 cases satisfactorily between ten and eleven o'clock, or even four o'clock. Such a number of cases required a couple of days in order to be properly disposed of. If necessary, there could be two courts sitting at the same time. As to the grievances connected with the plea of guilty, he did not think reference had been made to the blackest feature of this practice. It was a common case that a plea of guilty was tendered by a panel who wished

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to hide the details of his offence; but there were other cases of a worse kind, and he himself knew of one last session which brought out the real evil of the practice. This was that of two young persons, a boy and girl, aged fourteen and twelve respectively, who pleaded guilty to an offence which consisted in the breach of the by-laws of an institution, an offence reached by statute, and were sentenced to imprisonment and afterwards to be sent to a reformatory for five years. The boy afterwards explained that he was not guilty, but had been persuaded to plead by some benevolent person in the court, and it turned out that no by-laws in fact existed. This sentence was afterwards quashed. A minor evil had reference to sentences. An offence would be committed against the Public-house Act, and there would be an attempt to select before what magistrate it should be heard—whether before Bailie Lewis, a temperance advocate, or before some magistrate who was not so devoted to that cause. There was only another point to which he would refer—that of the detective system. It was advisable, he thought, that there should be a power of shifting detectives about, sending them from Edinburgh to Glasgow, and so on; but the evil to be guarded against was not precisely that to which reference had been made by various speakers, but one which he knew from experience to have existed in Edinburgh. What he meant was that if a detective was confined to a small area during his lifetime he acquired friendships and connections which interfered very considerably with the proper discharge of his duty, and gave rise to malversations which they had seen illustrated in the trial of the London detectives. He had heard great complaints in Edinburgh from merchants and citizens in regard to this evil, and it could only be obviated, as he had said, by shifting the detectives about from place to place. That would prevent their forming such intimacies, and, at the same time, prevent their being too well known by appearance to the criminal classes. Again, there was an observation made by Sheriff Comrie Thomson that he had heard no complaints as to the management of the police court. He did not know what the sheriff meant by that. Who was to complain? It was not to be expected that complaints were to be heard from the bench, and if the panels themselves were meant, *their* complaints were loud and long enough. He had sat in consultation again and again upon decisions of Bailie Lewis, Sheriff Hallard, and others, as to what was best to be done to correct the injustice they were alleged by the panels and their agents to have committed, and he could only wish those present had heard these consultations in order to show them how extravagant the argument was that there were no complaints. But the fact was that, in nine cases out of ten, complaints, however well founded, were entirely nugatory, as their evidence in police courts was not recorded. A little boy, for instance, was brought up and placed in the dock. A policeman stepped into the box, and someone else stepped in, and the evidence was dissipated with the breath that emitted it. Nothing of that evidence appeared afterwards. What was a counsel obliged to do in such cases? He just said, 'You have been iniquitously used. The evidence was quite insufficient, and I do not think you are guilty. But there is no way of

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getting at the evidence, and it is impossible to correct or reverse your sentence.' When, therefore, it was said that there were no complaints against the administration of justice, that statement must be taken with the explanation that the complaints that would have been made were rendered impossible by the fact that there was nothing to go upon, nothing to lay before the court of appeal.

Miss LYDIA BECKER asked how many hours the Police Court of Edinburgh sat, and how the supply of criminals was kept up at so extraordinary a rate. If the police court sat four or five hours a day, there must be an immense number of criminals about.—[Mr. HENDERSON explained that the whole business of the court seldom occupied an hour. The number of prisoners brought before the court last year was something like 12,000, or 1,000 a month. The CHAIRMAN (Sir James Watson) said that these numbers included a great many cases of drunk and incapables, and such people sometimes appeared twenty or thirty times before the police court. No sooner were they out of prison than they had to be sent back.]

Mr. CHARLES HILL (London) said there was a great deal of truth in *Punch's* definition of a policeman—an 'Invisible Blue.' It was indeed almost proverbial that when a policeman was wanted he could seldom be had. He thought a suggestion like the following might be worthy of consideration. At one time a printed paper was sent to his office in Bedford Row, on which it was stated that a police constable would be placed at a certain point in the neighbourhood, so that if persons required assistance they would know where, for a certainty, to find a policeman. That paper had not been sent to him again, but he could not help thinking at the time that if in our great cities policemen could be stationed at certain places, the system would help in the repression of crime. He was greatly shocked to find that in Edinburgh prisoners were tried by the magistrates at the rate of two or three a minute. He had read of large batches being quickly disposed of in London after a Bank holiday, but never at the rate that had been mentioned that day. Another point on which he wished to remark was that a very large proportion of persons were sent to prison who were guilty of trifling offences. In the case of young boys and girls, and those who had been subjected to great temptations, the punishment itself was as nothing compared to the terrible brand they bore for life. Wherever they went they were pointed out as gaol-birds. If anything could be done, in the case of first offences, either in the way of bonds or sureties, instead of imprisonment, it would be a great blessing.

Sheriff MACDONALD (Edinburgh) hoped their friends from the South would not go away with the idea that Edinburgh was a moral sink of iniquity, and that 100 real live criminals were knocked off at the police court each morning between ten and eleven o'clock. It should be understood that the great mass of the cases were not offences involving any moral delinquency. A large number of cases were those of old women who had failed to get their chimneys swept; energetic orange-women who obstructed the street with their wheelbarrows; and shop-keepers who allowed their packages to project unduly on the pavement. There

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would not be more than half a dozen really serious offences of a morning, while at least fifteen or twenty cases were those of incorrigible offenders. They never dreamt of asking for a trial. It would do them no good, and so they were disposed of in batches with perfect ease.

Mr. HENDERSON said that while most anxious to uphold the character of the city he must say the explanation of Sheriff Macdonald was not altogether consistent with the real state of affairs. The class of cases the learned sheriff enumerated were not those to which he referred.

Miss DOWNING (Vigilance Association, London) said what they had to consider was whether, and if so, how far, the powers of the police ought to be increased. For her own part, she thought that centralisation would have a most injurious effect. She was entirely of the opinion of Captain Verney, who greatly feared any extension of the powers of the police force which would really make it a military system. It was far better to endure foolish decisions and the stupidity of a policeman than to face the far greater danger which would result from an extension of the police system. With regard to police supervision, she confessed that she regarded it with great suspicion. Some of the police were drawn from the lowest class of humanity, and to say to an unfortunate criminal that for three years he was to be under such supervision was to place him in the power of any policeman who might come across him. People might say that that was not the case, but she knew perfectly well that in such cases the policeman held in his hand an almost absolute power. It entirely depended on the moral character of the policeman whether he did not levy blackmail, if he so chose. It was in the power of such an official to ask the unfortunate man for money, and if he refused, to threaten to denounce him to his employer, or his wife, or his children. In the hands of the present body of police, she thought this power was fraught with great danger to the whole country. If they were to have supervision at all, the police must be drawn from a different class than was at present the case. It must be done, too, with far more serious consideration and discussion throughout the country. As to the detective force, she quite agreed that they ought to be a specially trained class of men under one central authority. She disagreed with what was said by Captain Verney as to rewards, but in the desirableness of a superannuation fund she was at one with the previous speakers. Perhaps, indeed, it would be well, as was done in Pembroke Dock, to calculate the wages of the policeman on the supposition of so much for wages and a certain amount in respect of the superannuation fund. Such a plan would keep good men in the force, instead of their being driven, through inadequate pay, to some other employment. She distrusted all centralisation, and counselled local communities to keep self-government in their own hands, and not imitate the people of France.

Bailie DAVID LEWIS (Edinburgh) said that some of the statements in Mr. Henderson's Paper might possibly be misunderstood by their friends from England, and he should regret if they went away with the impression that they were not capable of explanation. They had

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heard a great deal of parties being tried at the police bar at the rate of something like sixty or eighty an hour. He wished it to be understood that the term 'tried' was a misapplication of the term. They were not tried at all. He had with him the report for 1878, and from it he said that in that year there were 10,100 police cases. In a large number of these cases there had been no trial. Of that 10,100 cases 2,755 were parties who had been taken from the streets in a state of helpless intoxication. Their case as a rule demanded no trial. They were brought up in batches, and he himself had despatched forty in a couple of minutes. They were placed at the bar, and just this one question was put to each, 'Guilty or not guilty.' They with rare exceptions plead guilty, of course, because there was no possibility of their being otherwise—they had been carried on stretchers to the cells. It must be observed in such cases that the magistrate had no discretionary power other than to impose the uniform statutory penalty of 5*s*., or not more than twenty-four hours' imprisonment, there being no distinction between the first and all subsequent offences. Again, of the total number, 810 were remitted to higher courts, to appear before the sheriff or judge, and these individuals, of course, were not tried. Then 513 men and women were charged with allowing their chimneys to fire, and in their cases also there was rarely any trial. It was necessary, he thought, that he should say this much, in order to make it plain that the magistrates of Edinburgh had not been fairly represented. They were told that the remedy for the so-called abuses was more time. More time for what? To make inquiry? What inquiry could be made in the case of these unhappy victims of liquor, unless it might be 'Where did you get your drink?' He should like the present discussion to result in power being granted to the magistrates to ask drunken incapables 'where they got their liquor.' He submitted that the plan of having trained lawyers or stipendiaries instead of unpaid magistrates was no remedy to the state of things complained of. Sheriff Hallard, he knew, was prepared to homologate the statement that trained lawyers did not take any more time over cases than unpaid magistrates. It was said that they should make inquiry after a plea of guilty was tendered. Now, he himself was in the habit of doing so, because they were not precluded from so doing by reason of a plea of guilty. He had come across noted criminals and other parties who had pleaded guilty, but his answer to them had been, 'Yes, you have pleaded guilty, but we must have inquiry;' and so, what with talking with one policeman and another, he had taken care that the sentence was commensurate with the information obtained. It had been said by Mr. Scott that he had sometimes had to deal with unjust sentences pronounced by him (Mr. Lewis). There were two rules he had laid down when he was appointed to the bench—that he would never send a boy or girl to prison for a first offence, nor a female charged for the first time with leading an irregular life. On the contrary, if he found this was their first offence he remitted them to the cell; and by dint of visiting them there he was glad to say that he had restored many of them to their families. Again, as to the important question of fines. He sometimes

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felt humbled when called upon to inflict fines upon drunken and wretched husbands. And why? Because, as a general rule, it was the woman who was mulcted, because she had to raise the money to get the man at liberty to go to his work. Indeed, he had known many cases where these poor women stripped themselves of their petticoats to pay the fine imposed on their drunken husbands, so that they might be able to go back to their work. This system of fines, in fact, was most mischievous. He might say that last year in Edinburgh the fines of the parties sent to prison, in default of payment, amounted to 2,795*l.* Twenty-five per cent. of these parties were males; so that it was just like all similar evils—they could not get at the real transgressor by fines. As to the question of centralisation, he might say they had had enough of that system in connection with parochial boards, and more recently with the administration of prisons. In Edinburgh they had had the most admirably worked prison-board in the kingdom. He had the honour of sitting upon it for years; and, therefore, was able to say that a more perfect piece of machinery could not have existed. But the new Act of the late Home Secretary had ordered them to raze the prison to the foundation, and erect a new one. He held this to be a most unreasonable mandate, for the accommodation of prisoners had been so excellent that there was not the slightest occasion for any change; and he protested that measures of this kind were reactionary, and tended to deprive the people of local self-government. As to the matter of superannuation, he contended that until they had a superannuation fund they would never have a satisfactory police force. In proof of this he might say that during the last five years they had had a police force in Edinburgh of nearly 420 in the aggregate. But during that five years no less than 184, or nearly half of the entire police force had resigned, against the wish of the superintendent. The reason of this simply was that there was no provision made for them, as in England, in case of disablement by service or otherwise. He hoped that the Section would agree to pass a resolution recommending to the General Council that immediate steps be taken to make it compulsory on the police commissioners of Scotland to provide for a superannuation fund for policemen.

Mr. T. Barwick Ll. Baker, in replying, said he wished to say a few words on a subject that had been referred to—the police force of Gloucestershire. He considered that that force was above the average. If they wanted to make men work well for them, they must vouchsafe to them some degree of trust and goodwill; but if they called a man a brute they were very apt to make him one. It was the former plan that was adopted in the police force of his county, and seeing what the results had been he confessed to a feeling of surprise when he heard several gentlemen stating that the police could not be trusted with the work of supervision. Their chief constable was a high-class man—an admiral, in fact, and a man of thoroughly gentlemanlike feeling and principle. He had under him 250 men drawn from the 'lower ranks.' Among that number there were unquestionably good and bad men, but the chief constable found out the good ones and promoted them to be sergeants and superintendents. These were the men in whom all

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the power was placed. They employed younger policemen to do as they were bid, and the truth was they proved themselves quite qualified for the work. It had been said that men must be very wretched under police supervision; but that was not the case in Gloucestershire, for there the men always said the police were very good friends to them and gave them work. He wished those present would remember that it was not in the power of the police to hurt criminals. That was obviated by the truth being told in the first instance. As Lord Reay had said of English diplomatists, they escaped, by their fair dealing, that worst of all punishment—being 'found out.' It was no secret that the police of Gloucestershire did particularly good work, for they were trusted and respected, and this was made apparent to the public. He hoped this method of dealing with the police would take root in Scotland.

Mr. Henderson, in replying on the discussion, said he was most anxious to disclaim any tendency on his part towards centralisation. The only remarks in his Paper which could have given rise to a misconception of his views in this respect had reference, he supposed, to his suggestions for centralising the Detective Department; but, as one of the speakers had very properly remarked, there was nothing whatever in the scheme he had propounded but what could be worked out with due regard to the local independence of a force. He could not see why, if a thief had the run of the country, the area of a detective officer's operations should be limited. He did not see why an officer should not have an opportunity of going from Carlisle to John O'Groat's after a thief, if necessary. This centralisation cry was often used to frighten people from following a particular course of action even when common sense commended it, because of the supposed tendency the change had in that direction. Sheriff Comrie Thomson had said that he (Mr. Henderson) argued for the appointment of stipendiary as against lay magistrates. He admitted that the remarks he made were based upon the varied experience he had had in different parts of the kingdom as to the way in which justice in police courts was administered, and if they seemed strongly worded as to the system in Scotland he assured the Section that they were caused by feelings he really could not command. He had commenced his career in the police in Glasgow, going thence to Manchester, where he had spent eight years, and subsequently to Leeds, where he had the command of the police for several years. At all these places he had carefully observed the mode in which justice was administered, and he was bound to say that the comparison, between those places where properly trained magistrates presided in the police courts and gave abundance of time to their duties and those places where the magistrates were being continually changed and where they had received no training for their magisterial duties, was most unfavourable to the latter. He found that in Leeds the number of prisoners brought before the court was very much less than in Edinburgh, although in Leeds the population was something considerably over 300,000, or half as great again as that of Edinburgh. The whole day was frequently devoted in Leeds to the disposal of the cases, and yet in

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Edinburgh he had found, as he had said already, that frequently 100 accused persons were disposed of in little more than half an hour. Making every allowance for the 'drunk and incapables,' as well as remitted cases, he repeated that to him it appeared impossible that substantial justice could be done to the poor people placed at the bar. If several of the speakers had had experience of the mode in which justice was administered in some of the larger cities, he thought that many of their remarks would have been withheld. It might happen that forty drunk and incapables could be disposed of in a batch, but at the same time he did not approve of the process. It might be that every one of the forty was drunk and incapable, but it might be that two or three of the number had not been drunk as described. Mistakes would take place, and it was always desirable as far as practicable to lessen the chances of mistakes. In England, when a man was brought up, the officer indicated where and under what circumstances he had found the accused, while the prisoner had the opportunity of asking the officer such questions as might put a different complexion on the affair. It had been truly remarked that a great deal of the present system was not so much the fault of the magistrate as of the law. On the question of stipendiaries as against lay magistrates, he admitted that justice was frequently administered by the latter in a way that some stipendiaries might take a lesson from. He believed that very often when common sense was brought to bear on a case it overruled the fancies sometimes bred by a legal education. At the same time there were advantages in the case of the properly trained magistrate—possessed of legal training and a thorough knowledge of the world (and he had had considerable experience of such magistrates) —and it was a great power for a man sitting in a court to be able to deal with confidence with the cases brought before him. If he had a doubt in his mind, caused by want of the necessary knowledge or training, he could not do justice with the same firmness and effect as could the magistrate who had confidence that the course he was taking was a proper one. In arguing for the centralisation of the Detective Department, Major Ross had cited the case of a murderer where such a system had been of advantage. There was another case in his own experience of very recent date which deserved mention. In Edinburgh, during the summer months, a great many houses were left to take care of themselves, and a short time ago one of these houses had been entered in a particular way. A day or two afterwards another house was entered in the same manner, and there the burglar left behind him a wedge, showing the mode in which the door had been forced. Both houses had their main doors on flats upstairs, and entry had been gained in the same style; and this caused him (Mr. Henderson) to remark that there was only one housebreaker that he knew in his varied experience in Glasgow, Manchester, Leeds, and Edinburgh who did his work in this particular way, and he had lost sight of him for a great many years. He set himself accordingly to trace the man. The Glasgow police informed him that that man had been sentenced to ten years' penal servitude in 1872, and on inquiry at the convict prison to which he had been sent he learned that this

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man had been liberated on ticket of leave in February 1860, giving Liverpool as his destination. The Liverpool police on being applied to let him know that the man had once reported himself there, but had since been lost sight of. He then got the man's portrait from the convict prison and placed it in the hands of his constables, and two days afterwards a sergeant saw a person resembling the photograph, searched him, and found him in possession of part of the proceeds of the burglaries. If the centralising of the detective force were carried out as suggested, similar cases would be of such common occurrence that in course of time every professional thief and his characteristics would be known to almost every officer all over the kingdom, and the occupation of professional thieves would be rendered so hazardous as to bring about a satisfactory and much-needed diminution in their numbers.

The CHAIRMAN (Sir James Watson) said it was most important they should take advantage of any suggestions for the improvement of the existing police system, and he was glad that Sir Rupert Kettle and Mr. Baker had brought so fully under review the whole of the subject. He agreed with the propriety of having men of education and gentlemen at the head of the police establishments in the country. The subject of police supervision was one which Miss Downing had exhausted. He had put a series of questions to Sir Rupert Kettle as to what he would do in certain cases, and his answers were:—1. A drunk and incapable—fine him and actually levy the fine, and take bail for his sobriety for six months. 2. A boy convicted of petty theft—bail him, and take his father's bail for his honest and peaceable behaviour for two years. 3. In the case of a man of better to good character—take his own bail and two sureties for his honesty and good behaviour for two years. The chairman said they would all be glad to know that this plan had succeeded in England. He did not think it could be put in force, however, in Scotland, for the simple reason that a great number of convicted persons could not find bail. Police supervision in such cases would be perfectly ineffectual, because the love of drink was such that it would be impossible to restrain them. As to the general question of police supervision, he thought that such a task would be too delicate a one for the average policeman. Besides, to have a policeman prowling about a man would inevitably destroy his character, and, on the whole, he thought the Scotch system preferable to that of England. As to the question of unpaid magistrates, his opinion was that justice was very ably administered by that class. The unpaid magistrate had the assistance of a public officer, knew the local circumstances, and, being generally a humane and considerate man, had no wish to inflict severe punishment. Under the circumstances, he should be sorry to see that class superseded in Scotland. He knew one case of a young boy brought up before the magistrate for petty theft. The boy was not sent to prison but carefully admonished, and told that if he came back again he would be severely punished. Twenty years afterwards the same boy thanked the magistrate for the way in which he had acted, and told him that if on that occasion he had been sent to prison he would have grown up a criminal, whereas

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he had succeeded in business to a considerable extent. At the same time he admitted that there was some truth in the allegation that undue haste was often witnessed in the transaction of police court business. As a magistrate, he felt guilty of the charge himself. Magistrates were very often men of business, and desirous of saving time. No doubt a great number of cases required no time to speak of; but, under all circumstances, he believed that a little more time might profitably be devoted to police court work. In that case it would be desirable to have more magistrates or stipendiaries, and in Glasgow it would be desirable to add one or two stipendiaries. In regard to pleas of guilty, he hoped that after what had been said some remedy would be adopted. He also hoped that something would be done that would allow of the police making arrests in neighbouring counties. At present the limited area to which they were confined prevented them from following up a criminal beyond a certain boundary.

On the motion of the CHAIRMAN, seconded by Bailie LEWIS, the following resolution was then adopted:—

'That this Section recommend the Council of the Social Science Association to memorialise the Government to adopt measures to secure for Scotland a system of superannuation for the police officers of the country, as a means of improving the character of the force, and thereby adding to the security of life and property.'

JUVENILE DELINQUENCY—SCOTLAND.[1]

What Changes are desirable in the Mode of dealing with Juvenile Delinquency? By CHARLES SCOTT, Advocate.

WHILE many and energetic efforts are made to prevent children from falling into crime, or to reclaim them after conviction, less attention is paid to that important period which intervenes between the apprehension of a boy or girl charged with an offence and the subsequent result. Yet it is unquestionably worthy of attention to prevent the brand of criminality being stamped upon a child, whether by the conviction of the innocent, or by the unnecessary punishment even of the guilty. In making a few remarks on this branch of the great subject of Juvenile Delinquency, it is necessary to commence by noticing the position of our criminal courts in reference to the young.

Here the first observation which occurs is, that unfortunately, with occasional exceptions, the High Court of Justiciary is substantially without any function so far as regards juvenile panels. In the course of this century, previous to 1875, this court, at one time so formidable and ubiquitous,

[1] See *Transactions*, 1876, p. 378; 1875, p. 363; 1864, p. 247; 1862, p. 521; 1861, p. 496; 1860, p. 465.

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gradually lost its importance as a supreme tribunal, and was to all intents and purposes shoved into a corner. In name it was still the Court of Appeal from all inferior judges, but in practice the exercise of this function had been made nearly impossible. The whole aim of the Legislature for years before had been merely to obtain ease and speed in the prosecution of crime, and for this purpose in all summary complaints care was taken to enact that the evidence should not be taken down, and so to regulate the record, that most of the procedure was hidden from observation. The result was that inquiry into the merits of a sentence became impossible, and the grossest misconceptions of the facts were placed beyond the possibility of correction. Further, even the most important blunders in law could not be detected, for these, in most cases, in order to be understood required in the first place a knowledge of the facts. This was the position of matters even in those tribunals where unpaid, untrained, and often entirely inexperienced magistrates ruled the fates and future lives of all brought before them, whether innocent or guilty. In the Sheriff Courts, no doubt, when the causes were not summary, a jury intervened, and undoubtedly gave a certain guarantee for fairness, but the conviction when once obtained was practically final, and the grossest blunders could only be corrected by the illogical process of an appeal to the mercy of the Crown. Generally, as a Court of Appeal, the High Court was limited to some error accidentally committed in drawing the complaint, or in writing the few formal interlocutors that required to be recorded. Occasionally, under this system some serious question came almost by chance to be determined, but for the most part the elaborate machinery of this ancient tribunal, which represented the Royal Justiciar of Scotland, was directed to matters which, so far as regarded the real merits of the process, were absolutely frivolous and indifferent. The point that really concerned an innocent prisoner appealing to the Highest Court, and the only point of real importance so far as his particular case was concerned, was whether the inferior judge had rightly convicted him upon the evidence. But this was the one point on which no inquiry could take place, and the whole energies of a Court consisting of seven supreme judges, including the Lord President and Lord Justice Clerk, were wasted in deciding—whether the prosecutor had accidentally omitted some word from an indictment, whether the judge had committed some technical error in the sentence, whether the panel had got twenty-four or some other number of hours to prepare, or other like points, which, in nine-tenths of the cases, had

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nothing to do, and were not even pretended to have anything to do, with the guilt or innocence of the prisoner at all. Sometimes, in cases where the judges strongly suspected injustice or mistake, they made desperate efforts to correct it by supposing some kind of malice or wilful oppression on the part of the magistrate, where there was nothing but wrong-headedness, or by giving an inordinate importance to some technicality. But in general the antiquated and toothless tribunal masticated as it best could the meagre fare that was submitted to it.

The Summary Prosecutions Appeals (Scotland) Act, 1875, made an important alteration in this absurd condition of matters by compelling the inferior judge, where required to do so, to state a Special Case, setting forth the facts and the grounds of his determination, and this has already had important effects in protecting the young. The law has not yet, however, had the courage to go to the root of the matter, and give in all serious cases a review upon the facts. The want of this remedy has had a very prejudicial effect upon the inferior magistrate and on the Supreme Court itself. The former feels that he is virtually beyond control in any view of the evidence he may choose to form, while the supreme judges, and those who plead before them, are led into most artificial and unwholesome notions of what is really important in the causes brought before them. They make-believe to think, what is contrary to universal experience, that the inferior judge has little chance of misapprehending the proof, or they are led by circumstances to look upon that as a matter of less importance than some trifling error in the procedure. In point of fact, however, both for the prisoner and the State, though correctness in point of law is unquestionably of importance, the question of the panel's guilt or innocence is of much more importance, and is indeed the only substantial matter to be determined. We will afterwards revert to this point in its bearing upon the mode of dealing with Juvenile Delinquency.

The original jurisdiction of the Court of Justiciary had also become disorganised, and in this department it cannot be said that much improvement has taken place. If any intelligent layman were asked to define the kind of cases that ought to be brought before a tribunal so well manned and so highly qualified, he would certainly include within the category, first, causes of difficulty in point of law; second, those of complication in point of evidence; third, those which from their great national importance or other like characteristics ought to be decided in the central tribunal, and within view of the entire nation; and lastly, causes otherwise of importance where it is

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desirable that the prisoner should have the protection of the High Court, free from all hurry, and sitting close to the stores of learning which former ages have laid up. In point of fact, however, these considerations have very little weight in the matter; the character of the possible sentence is almost solely regarded; and most of the time of this solemn tribunal is occupied in the trial of trumpery offences, committed by habitual and repeatedly convicted thieves. It is not uncommon to see a judge of great eminence and a jury of respectable merchants engaged all day trying some paltry police case, such as the theft of a petticoat or a horse cloth, or some offence committed upon a person who had got himself intoxicated, or had wandered into a place of questionable repute, and that for no other reason than that the criminal had committed some similar offence half a dozen times before, and might possibly suffer a sentence considered too severe for the powers of an inferior judge. Occasionally the senator, heartily ashamed of his position, cannot refrain from expressing his feelings openly, and has been known after a long investigation to award the prisoner a sentence of sixty days' imprisonment. While these follies are being enacted, not only are causes of the utmost complexity and the highest importance disposed of in the Inferior Court or at Circuit, sometimes with most embarrassing results, but, what is worse, the most important and delicate of all cases, the first convictions of young children for serious crimes, are hurried through in the hurly-burly of the lowest courts, and under regulations that are skilfully devised to exclude any investigation into injustice.

It is very obvious that the mere possible severity of the sentence cannot be considered in a country like this as the test of the importance of a cause. No doubt it may be in one sense important to a man, living by theft or robbery, to keep as long as possible in a position admitting of his business being carried on; but this is not the kind of importance which the public can be expected to appreciate. In the ordinary run of these trials there is no difficulty either in the law or the evidence, and the great majority of them should be at once bundled off to the sheriff, or even to the police magistrates, and their places in the High Court supplied by more difficult and momentous prosecutions. Now, how are children treated in comparison with these hardened and pampered scoundrels? It cannot, we think, be for a moment disputed that the most important of all causes are those where it is sought for the first time to mark a respectable person, and particularly a helpless boy or girl, with the black brand of

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theft. When this is once burned into them, never again by any human effort can it be thoroughly eradicated. Philanthropy may struggle and religion do its best, and they may sometimes accomplish something, but they can never place the child on the same vantage ground he occupied before. The length of the sentence matters nothing. It may be twenty-four days or twenty-four hours, or if that were competent it might be twenty-four minutes; it is of little consequence. The child is a thief from that time forth. In every quarrel at play his companions call it to him; in the workshop, if he reaches it, his fellow-apprentices give him a wide berth; when he becomes a man a respectable girl will not look at him; his fellow-workmen hold aloof, or at least he thinks that they do; his master and foreman watch his doings more carefully; in the witness-box the conviction is wrung from his reluctant lips in cross-examination, nay, in the silent depths of his own heart the horrible word thief is perpetually echoing. It is consequences such as these that make a first conviction terrible, and that render it imperative that the utmost skill of the law should be exercised to prevent it being recorded wrongfully.

Now what is the actual state of procedure in regard to juvenile panels? The habitual criminal is defended by learned counsel who are assigned to him by the court free of cost; he is tried deliberately and impartially by fifteen citizens chosen by lot from the respectable classes of the community; his interests are watched over by a judge of the Supreme Tribunal. But what of the child? The little fellow is hurried up before some petty court, perhaps before some magistrate, who may be just as well as merciful, but who is entirely untrained in weighing evidence, and may have hurried from his shop or his office to discharge the most delicate of duties. We do not know how matters generally stand in regard to giving notice to the parents or relatives, but we know that often no notice whatever is given, and a case occurred only recently, where a father heard for the first time, in reading the evening paper, of his boy being sent for five years to a reformatory, for an alleged offence committed in a public institution where he was an inmate. A complaint is read over to the child which he cannot possibly understand or at least appreciate, and if he does not ask for time, he is at once tried then and there. He has no defender assigned to him. He cannot possibly defend himself. A boy or girl cannot appreciate the facts which either tell for or against them. They neither know what to state nor how to prove it if they did. The judge may and doubtless will do what he can to act as counsel

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for them, but he will attempt an impossibility, as he knows nothing of the facts except what the prosecution lays before him. The prosecutor goes through his dismal duty; a policeman or two step into the box, and prove the case, or are supposed to prove it; and often in a few minutes the little panel is a thief for once and for ever, and the evidence on which the conviction was based has passed away into the air, dissipated with the breath of the witnesses who gave it. All the judges in Great Britain and all the churches to boot cannot place the hapless creature where he was half an hour before. At the time probably he only fears the gaol, and cries bitterly as he enters its iron portals. It is only as he grows older that the more terrible consequences disclose themselves. As regards these most pitiable of all cases, the Supreme Criminal Tribunal, unless by good luck an error in law has been committed, and some one has taken the trouble to unearth it, is absolutely without a function. If the child had been old enough to have some paltry debt due to him, he would have had the matter tried before a professional judge highly educated and thoroughly trained. He would have had the evidence carefully recorded by a shorthand writer. He would have had the assistance of skilful professional advisers, and he might have appealed from any judgment against him, first to the sheriff, and after that to a division, consisting of four supreme judges. If the debt had been more considerable, he might have appealed still farther to the House of Lords. Such is the different regard paid in this country to property on the one hand, and to character, liberty, and position on the other.

He would be a bold man who, after sitting for a few days in a police court, would venture to affirm that an appreciable percentage of young children are not found guilty when they are innocent; and if such is the case, there is a serious evil which it is necessary to minimise as much as possible. But there is another remark which it is requisite to make in discussing the relation of children to the criminal law. It is often forgotten that the conceptions of a young boy or girl in regard to crime must necessarily be very different from those of a tolerably intelligent adult. They cannot possibly have any correct idea of its evil effects upon the State, or upon other citizens, or even upon themselves; conceptions which are so important in defining to the mature mind the character of crime, explaining its essence, and making its evil visible. In the immense majority of cases, even where the child has not been neglected, an offence against the law can only appear to his immature mind as something prohibited for reasons which

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altogether escape his powers of analysis. Further, it must be extremely difficult for any child, who in this respect, as in many others, is in a mental condition very analogous to that of uncivilised races, to realise the idea of property in articles which are not in the actual natural possession of the owner. If one were trying to stretch back his memory to the obscure times of his childhood, he would probably remember that in those distant days he had formed no distinct idea of property in anything which grew in an unenclosed field, and probably regarded the farmer, or his servants who frightened him away, as tyrants who held their vantage ground merely by the superiority of physical power. On the other hand, an untrained or uneducated child has no definite conceptions of crime at all, while many are actually taught to consider some offences, such as theft, as positively praiseworthy, and the means of assisting their parents to gain their daily bread. Considerations like these are apt to strike us with overpowering force when we read of a young boy or girl being sent fourteen days to gaol for stealing a turnip; and we at once recognise the imperative necessity of the intervention of the Home Secretary in such an abuse. Of course there always recur in regard to children the same considerations that have given rise to so much difficulty in courts in regard to persons of weak mind—namely, that it is positively necessary to put a stop to criminal practices, and that wherever the mind is capable of being restrained by the terror of punishment, there is room for its application. At the same time it cannot and ought never to be forgotten that the law is bound on every principle of reason to deal with children in an entirely different way from that in which it deals with adults, and in this department of jurisprudence there is scope for a large modification both of principle and practice. This subject, however, as yet has been much neglected, the attention of law reformers having been mostly directed either to dealing with juveniles before they have come within the grasp of the law, or to their reformation after they have been convicted. There is room, however, for very important reforms in the intermediate region, when the public prosecutor has laid hands upon them, but has not yet obtained a conviction. In a short paper it is impossible to develop satisfactorily this subject, but one or two hints may be given.

In the first place, it is absolutely essential to enact, as matter of statutory law, that in all cases where young children are charged with crime, the complaint should be served upon their parents; or when they are dead, or cannot be found, upon

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the persons in whose guardianship they are. The attendance of those persons at all the stages of the prosecution should be positively insisted upon, and an inquiry should uniformly take place into the share which they or others may have had in the delinquency of the child. In a large percentage of cases it will be found that they have been really the guilty parties, and it should be put within the power of the judge to include them within the sentence, or even to dismiss the juvenile, and to pass sentence upon them alone. As poor children are at this moment almost always entirely unprotected in the inferior courts, where they generally appear, agents for the poor should be appointed for these, as for the other tribunals where they already exist though less required, and their official duty should be to attend to the interests of these helpless prisoners where they have no other representatives.

In almost no instance should a trial, properly so called, ever take place of a child for a first offence. In no case do the circumstances ever warrant the terrible consequences which inevitably follow, the results of which to society are even more prejudicial than they are to the delinquents themselves. Whenever there is no danger of absconding, apprehension should, if possible, be avoided, and the initial procedure should consist in a rigorous investigation into the facts of the case, and particularly into the position of the child at home, and the share, if any, which his parents or others, by connivance or neglect, may have had in the offence with which he is charged. If the panel's advisers desire it, the investigation might take place by the inferior judge, but if not, the matter should be at once remitted to and dealt with by the sheriff. This dealing should not be in the form of a public trial, with a solemn apparatus of prosecutor and witnesses. On the contrary, it should be more in the form of an investigation by the judge as the legal guardian of the prisoner. It should not be hampered or limited by technical rules, but should embrace the whole circumstances necessary to give a correct idea of the position of the child; and it should not be reportable by the public press. No conviction should follow on such an investigation; but the judge should, at the conclusion, be entitled to call the child and his parents or guardians before him at chambers, and as the representative of the State, which is the parent of the people, deal with both, if necessary, by a solemn and kindly warning. It should be made competent at this stage, if the judge should see cause, to give decree against the parents for the expense of the investigation, and a short official *résumé* of the facts should be drawn up for future reference in case of that being necessary; but in

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no case should the document be considered as public or as open to anyone to be examined or extracted. It should also be competent for the judge in all cases of complexity or difficulty to consult with the Lord Justice General, or other judge of the Supreme Criminal Court whom he may appoint, and this court should be constituted the general guardian, protector, and adviser of all children who come within the scope of the courts of which it is the head. These eminent judges should be entitled in all cases to deal personally and privately with the panels and with their guardians. The only example we have at present of such close and friendly dealing on the part of a judge with young persons is that of the interviews of the Lord Chancellor of England with the wards under his guardianship. There can be no doubt of the important effect which such dealing would have, and by the procedure here described the utmost possible chance would be given, not merely for the reformation of a juvenile delinquent, but for an improved course of conduct in the case of those parties on whom he may be dependent.

If the child should again come before the notice of the police on the charge of some serious criminal act, the process would necessarily assume a different complexion. His advisers should, in such cases as theft, again, if they desired it, have the power of requiring the case to be remitted to the sheriff, and in that event, if required, the evidence should be recorded and an appeal be given to the Supreme Court. This right would only apply to cases implying dishonesty or disgrace, and even in these it would in all likelihood not be exercised except in prosecutions where there was serious doubt either upon the law or upon the evidence. In this investigation the *résumé* of the former inquiry should be laid before the judge, and he should have the power of directing a prosecution of the parents for neglect of their duty towards the child, and either convicting them of the offence itself, or of culpable neglect, or merely giving decree against them for the expenses of the prosecution. In carrying out this part of their jurisdiction, the judges would require to exercise that wise discrimination which the necessities of the case might demand. Where the parent is found to be using his child for the purpose of assisting him in crime, a more severe sentence is demanded than even in the case where the parent himself should be personally found guilty of a similar crime. When the evil propensities of the boy are due in a greater or less degree to parental neglect, the sentence will be proportionate to the grossness of the neglect. On the other hand, there are instances where the father is more the object of

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sympathy and commiseration than of blame. Where a workman is compelled to go out to his toil from morning till night, and the mother is either dead or incapable, it would evidently, where he has done his utmost, be grossly iniquitous to punish him for the perversity of his obstinate and ill-conditioned offspring.

With regard to the youthful panel himself, a second appearance before a court for offences of dishonesty, or crimes which similarly taint the character, should be held as convincing evidence that parental discipline has failed, and that severe and continuous training is imperatively demanded. In that case the child should at once be despatched for a long period to some reformatory institution. He would thus become in every sense the child of the State, and be treated as such; and it ought entirely to depend on the character of the parents whether they can henceforth be recognised in that relation, or permitted to resume any control over their trained and emancipated children. This committal to an institution ought not, however, to be accompanied by any conviction against the boy or girl who is the subject of it, otherwise more than half of the benefit to be expected from it would be lost; and the judgment ought to be founded entirely upon the narrative that the step has been found expedient. Even the very name of Reformatory had better be eliminated, and that of Training or Educational Institution be substituted. Nothing should be placed upon record which can at any time be raked up to poison the future career of the wards of the nation, or to destroy the chance of their expected reformation.

It may be objected that too great tenderness would be shown under this system to juvenile crime; but the very phrase itself rebuts the objection. We are dealing with *juvenile* crime—the offences and delinquencies of children. In such pitiable cases vindictiveness is out of the question. It would come much too soon; training should naturally come first and punishment afterwards. But, in truth, it is our own interest we are consulting when we deal thus gently with offenders. In many cases boys are merely the instruments of older criminals; in many more they are the victims of the neglect or abuse of others. In no case can it be expected that the punishment of such unfortunate juveniles can exercise much deterrent effect upon others who have not yet fallen. Grown men read their newspapers, they reason from what they read. From the judicial penalties inflicted upon others they draw practical conclusions as to their own conduct in life. This can scarcely be said to be the case with young children, at all events with those in the class from

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which criminals are generally taken. If they hear of such events at all, their natural thoughtlessness and the whirl of their untutored feelings waft the lesson away before it has had time even to suggest itself. A sentence may be said to fall upon a juvenile quite unexpectedly. It is never previously contemplated by him as a consequence of the deeds which he may be committing. When punishment is inflicted and has been suffered, the probability is that it has produced one of two results: either the boy rises defiantly against it, and becomes a brazen and shameless offender, or, what is perhaps equally often the case, he sinks into hopeless depression before the taunts to which he is continually subjected, and falls down likely never to rise again. In such a case society suffers even more than the children, and her struggles to rescue them are, in point of fact, as much struggles to save herself.

On the Same.

By Mrs. MEREDITH, Prison Mission, Wandsworth.

THE columns of the *Times*, within the last few days, have called public attention to some facts connected with juvenile delinquents that come directly to the point that we are about to discuss, namely, whether any change in the mode of dealing with young offenders is desirable.

The letters of September 7 and September 9 show that the justices are dissatisfied, and that the Home Secretary is dissatisfied, with the present state of affairs. It is of importance to get the case *well* put before the minds of those who study the subject, and to have from them an opinion that may be practically serviceable to the matter.

If I may venture to say so, there are very crude ideas entertained on the subject of children's delinquency. All that has been said and done about it seems to be very little known to the mass of intelligent people. It is a social problem of intense interest, and it is surprising that it does not engage more attention. An effort to popularise it would not be thrown away, and might bring round a healthy view of the *moral* importance of it to the whole community. I have often been met with this remark: 'It is a disagreeable matter to have to correct other people's children; we have enough to do with our own; and anyone that likes may take the bad ones in hand.' But this will not do. Everyone must take the thing in hand, or it will take them in hand some day.

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Bad children at our gates will bring evil inside our door, and it is a *passe-partout* that spreads like an epidemic. I am told that social mischief does not run up, but down. I know better than this. It soaks through every way, and does damage before people are aware of its presence.

It is difficult to form an estimate of the progress of juvenile delinquency in this country; for there is no reliable evidence on which to come to a conclusion, whether it is on the increase or not. Statistics give meagre information on the subject; and observation often misleads those who have the best opportunities for seeing and knowing what is transpiring daily in the classes of the community whose misdeeds are public property. Their state is our gauge in which the register is kept.

Persons connected with missions in crowded cities and large towns, generally report that the children in these places are getting worse and worse in their morals. This statement must be received with respect; and yet it is wise to consider how much the minds of those who are seeking to promote virtue and good are influenced by the presence of evil.

Nothing can exaggerate its hideous nature and destructive character; but, in seeking to deliver its victims, there is a tendency to feel overwhelmed, and to put the case in the strongest light to sympathisers.

After some years of knowledge as to the condition of the very lowest states of society, I am not able to testify to increased delinquency of children. Matters are, so far as I can judge, very much as they were twenty years ago. The state of youngsters in the courts and lanes is better known to the public than it was in those days; and the 'Arab' and 'gutter child' and 'young thief' are written about sensationally.

This magnifies them as a class, and makes them appear to be a larger number than they are. Happily, too, it interests many good people in these victims of vice, and causes a great effort at rescuing them, which has a perceptible effect on the case, not only in diminishing the mass of the items here and there, but influencing the quality of the whole class. To this I can bear witness. There were, some years ago, hordes of wild children who were most inaccessible to any solicitations to come into 'homes' and 'schools'; now it is far otherwise; the children are everywhere seeking to be '*took up*,' as they say. They don't want to be 'bad nor dirty.' They wish to be 'good, clean, and 'spectable.' Their desires are the fruit of the work done in the streets by many agencies; and before we go on to deal with reformatory and penal measures for juvenile delinquents, I must say that the 'street Arab' is not the

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worst section of this class. It is not he that troubles the police courts, and is the problem of the justices and of the criminal executive.

Orphans, illegitimate and deserted children, have, it appears to me, a way of escape out of the wretched street mess, that is not open to the juveniles that have parents and guardians who neglect their duty.

The 'Union' and the Charitable Institution are open to the poor 'waifs and strays'; and, except the increased efficiency of such organisations, we need not desire any change in this mode of dealing with the little boys and girls that offend our sight and transgress the laws of civilisation in our streets.

The direction in which I see failure for these great agencies is in their lack of provision for the future personal and social life of their charges. In order to make them as thoroughly useful instruments as they are capable of becoming they should contemplate this matter, and adapt their valuable work to its full purpose. They do accomplish part of their object, for it is indeed true that they banish *juvenile* delinquency; but it is not always sure that their training prevents the crimes of their riper age.

The young people who are sent out from our public establishments are men and women sadly disadvantaged by their want of family ties, and their isolation in our midst. The result is that at a stage of maturity they break down, and kick against their circumstances, and form *the* thick mud of our criminal sea. Those who dive into that matter will find that it is chiefly composed of the detached material which has been in our various great schools, and was sent out stocked with knowledge and advice, and even provided with friends and patrons, but was left without human interests, those blessed assimilations and amalgamations that render self less aggressive, and not only innocuous, but, in its turn, beneficent, good-doing, and kindly.

It is a positive duty to give these people a new community, in order that they may have opportunity for their faculties to develop in the natural direction. The founding of a colony by their means would be a wise social movement, and a national benefit, which our generation greatly needs. Emigration is not applicable as a remedy for crime; in fact, it is a crime to practise it on criminals; but it is the *specific* provided by the Divine Ruler of the world for the evil of overcrowded centres; and for the formation of new and healthy family ties and interests.

No discussion can take place on the treatment of juvenile

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delinquency without reference to this subject of deportation; and it truly requires to be dealt with as a special course of things, running alongside the matter in hand, to which we must turn and leave it for the present.

There was formerly an idea that these extra children of the waif sort, &c., belonged to the criminal class by birth. This error I have had the privilege to dispel.

Criminals are not so foolish as to let down the strength of their community by such a loss as their children would be. They preserve them rigorously. In fact, the organisation of their society is most effective in this department. They depend on their descendants, as an hereditary nobleman does, to perpetuate their race, with its privileges and powers. When anyone wants to learn the force of human attachments let him study the habits of the criminal in parental relations. I can afford an opportunity to such students, but will not occupy time here with statements concerning it.

The phenomenon of the connection is that the young members of criminal families are always carefully kept from all risk of police and punishment.

Criminals educate their children in some degree with other people's. They generally keep them ignorant of the profession in their early years, and prepare them by some intellectual culture to pursue it, if needful and agreeable, hereafter.

A man who is an average specimen of the class said, 'I won't make my boy a thief; but, if he steals at all, he shall do it better than I have done it'; and the 'mothers,' with whom I have frequent intercourse, express somewhat similar statements. They are willing to let their children do well if they can, but they think it wise to provide them with a resource, in case of failure.

These children, with the street Arab and waif class, ought to have the benefit of a colonial outlet, that the tie that they have may be cut, and replaced by others of a better sort. Otherwise, even if the children of criminals be taken into custody, and preserved during youth from parental influence, nothing but flight can prevent the reconstruction of the family life which has been temporarily broken up.

In proof of my position that neither the waifs nor the children of criminals are the juvenile delinquents with whom our courts have to deal, one need only notice the cases brought before the magistrates of metropolitan and rural benches.

Of course, I do not insist that the 'known thieves and depredators under sixteen years old,' stated in our 'Judicial Statistics' to be under police notice, to the number of about

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5,000, are all positively insulated from the waif class, and born of working parents, not belonging to the outlaw circle; but the probability is that they come mainly from the ordinary population; and we may assume that they are the very stuff whence the other set is recruited, and always will be recruited. If not recruited from the ranks of the general public, the vicious races would die out. Vice kills. Virtue and good morals grafted on such a stock do not repair its *physique.* The only safeguard against this material degeneration, with all its dangers to the morals of the surrounding circles, is deportation to a colony. The longer we postpone this step the worse for England.

Deterioration is manifest among our poor people, and its tendency is to spread itself. But, now, let us come to the true juvenile delinquent. We find him generally to be the son of a neighbour, a working man, or a small tradesman; and it is demonstrable that he has a mother, who may be our washerwoman, and well known in the district. As a rule, we may conclude that both these parties are fond of beer, and that they support the gin-shop. This is their full-grown depravity; and its result is their child's delinquency. Sons and daughters of these people furnish us with painful subject for discussion.

We annually imprison about 1,000 children under twelve years of age; and under sixteen, but over twelve, 7,000. The Certified Reformatories contain between four and five thousand of them, and the Certified Industrial Schools nearly nine thousand. Add to this that voluntary uncertified charities take in hand not less than 10,000, and some idea may be formed of the vast amount of trouble people who neglect their children give to the benevolent public and to the State. On examination of the annexed table it will be seen that the number of cases who have both parents on commitment is much greater than those who have neither, or who have been deserted, &c.

Private charity may be quite able to deal with the vicious as well as the merely destitute, and it may not. There is just this liability, and it conveys great responsibility. When the case is complicated there is necessity for the co-operation of the Government, which is responsible to the nation for the repression of crime.

All offenders ought to be brought into contact with the sword of the State in some form or other; and, as a matter of Christian faith, it is not right to avoid it. It is, somehow, a very prevalent opinion, that any agency is better for juvenile delinquents than the action of the law.

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Reformatory Schools.—*Age, Sex, Social Condition, State of Instruction, and previous Commitments, so far as can be ascertained, of the above Youthful Offenders.*

Ages when Admitted	Total	Social Condition on Admission										State of Instruction on Admission					Previously Committed to any Prison								Not previously Committed
		Parents dead		Deserted by Parents		Parents in Prison		Otherwise Uncontrolled by Parents		Under Parental Control		Neither read nor write	Read or read and write imperfectly	Read and write well	Superior Instruction	Instruction not ascertained	Once	Twice	Thrice	4 Times	5 Times	7 Times and above 5	10 Times and above 7	Above 10 Times	
		One only	Both	One only	Both	One only	Both	One only	Both	One only	Both														
10 Years and under:																									
Males	73	20	3	1	..	..	1	2	7	19	42	45	27	1	..	..	22	7	2	..	..	1	..	..	41
Females	6	1	..	1	..	1	..	1	1	2	2	3	2	1	..	..	1	..	..	..	..	..	..	..	5
11 Years and above 10:																									
Males	92	28	2	3	..	..	..	9	7	24	51	49	36	7	..	..	35	10	3	1	..	..	..	..	43
Females	12	2	1	..	..	3	..	1	1	4	5	6	6	..	..	..	1	..	..	..	..	..	..	..	11
12 Years and above 11:																									
Males	167	44	6	6	3	1	..	14	13	35	94	75	78	14	..	..	53	18	3	..	..	..	..	..	93
Females	28	12	3	..	2	1	..	3	4	6	7	13	10	5	..	..	..	1	..	..	..	..	..	..	27
13 Years and above 12:																									
Males	231	77	10	6	1	4	..	22	21	68	113	103	112	16	..	..	73	18	5	1	..	..	..	..	134
Females	49	21	3	2	..	1	..	6	1	14	23	22	23	3	..	1	8	1	1	..	..	..	..	..	39
14 Years and above 13:																									
Males	269	88	19	9	3	1	..	32	25	63	132	128	121	18	2	..	101	23	15	2	1	..	..	..	127
Females	85	37	6	2	..	2	..	7	5	29	32	37	38	10	..	..	9	2	..	..	..	..	..	..	74
15 Years and above 14:																									
Males	259	101	23	7	..	5	..	31	41	83	102	122	108	28	1	..	87	31	8	3	1	2	..	..	127
Females	59	21	2	2	..	4	..	1	5	21	28	31	20	7	..	1	3	5	..	..	..	..	..	..	51
Under 16 and above 15 Years:																									
Males	111	44	9	8	2	2	..	12	36	21	32	46	43	20	2	..	30	14	9	..	..	1	..	..	57
Females	30	12	4	3	..	1	..	1	4	11	8	8	18	4	..	..	4	4	..	..	..	..	..	..	22
Total	1,471	508	91	50	11	26	1	142	171	400	671	688	642	134	5	2	427	134	46	7	2	4	..	..	851

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If a child commits any kind of an offence the objection to prosecute is remarkable; and it is always based on the horror entertained of the treatment it will incur by so doing.

Notwithstanding that this exists, and is a strong public sentiment, the state of things continues from year to year, rendering it almost impossible to get a hold of juvenile delinquents, in order to check them suitably and in time.

The public is in a difficulty, and it ought to be relieved. There is an impression that the nature of the sentence that must be passed if the child is convicted is unjust, and that its execution is ill-performed. The justices, as a rule, have not so much the public confidence as they ought to possess. Surely the correction of children lies within the duty of all men, and all women too. Efforts to save juvenile delinquents from a court of justice imply that the authorities are incapable, or stultified. Very likely the latter is the case, and it must, if possible, be removed.

The correspondence that took place recently in the newspapers about Walter Deane is highly suggestive. The Home Secretary objected to the sentence passed on this boy by Mr. Watts Hallewell; and this gentleman has done well to bring the case to the tribunal of public opinion. Mr. Hallewell gave him fourteen days in prison under the Summary Jurisdiction Act of 1875, by which he was prevented from inflicting whipping, from the nature of the offence, which was 'not indictable.'

The career of the boy, it is to be hoped, is exceptional. Its publication at this date is singularly useful, for only such extreme cases take effect on the public mind. It has thoroughly awakened attention, which must not die out until the step is taken that is so much needed of mending the Summary Jurisdiction Act in relation to juveniles.

'About two years ago Walter Deane set fire to a larch plantation at Bisley, damage 20*l.*, belonging to Mr. S., who refused to prosecute on account of his youth. Shortly afterwards he stole some cogwheels from a drill belonging to Mr. J. B., at Bisley. Mr. B. had the wheels back, and refused to prosecute on account of his youth. Afterwards he stole some money from a cottage at Water Lane, belonging to Mr. S. He refused to prosecute on account of his youth. Afterwards he stole some eggs from Mr. D., and at the same time committed considerable damage to a cottage by breaking windows. The damage was estimated at 1*l.* Mr. D. refused to prosecute. In January last he broke a pane of glass, with intent to steal, in a grocer's shop at Chalford Hill, belonging to

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Mr. B., who refused to prosecute on account of his age. In the same month he broke the window of the reading-room at Chalford Hill, doing damage to the amount of 1*s*. The trustees refused to prosecute. In the same month he broke windows belonging to J. D., S. G., and J. G., at Chalford. They refused to prosecute because of the expenses. In February he broke into a cottage at Chalford Hill, and stole bacon, cheese, bread, and beef, the property of W. W., who refused to prosecute. He then set on fire some grass, doing considerable damage. In the same month he broke windows in the cottage of a man named C., at Chalford, who refused to prosecute. In June last he stole an axe belonging to Mr. W., Chalford, who refused to prosecute. He then broke eleven panes of glass in the windows of the schoolroom at the Baptist Chapel. The trustees refused to prosecute. In July he was caught stealing cherries, and in August he was caught stealing gooseberries. There are many other cases against him.'

The Certified Industrial School was open to this juvenile; he was not sent there. It is hard to tell why.

Some Benches are deplorably ignorant of their powers in this direction. There is great diversity of opinion among magistrates as to the expediency of commitment to either Industrial School or Reformatory.

The main idea is that the sentence is too much for the offence; and the desire is to do the youth justice, and give only a period of detention apportioned to the age of the culprit and the extent of transgression.

I have had to argue these cases so frequently with magistrates that I am familiar with the objections that have to be combated. They are chiefly on the ground that their jurisdiction ends with the treatment of the special offence, and does not relate to the future welfare of the individual. This is, in fact, the crucial point of all criminal legislation. If we are to do anything curative for criminals, children have first claims.

'It is both humbling and depressing to find that in eight years 65,384 children under sixteen years of age—the age before attaining which they are by judicial ruling held not to have arrived at years of discretion'—writes another *Times* correspondent, 'should have been sent to gaol in England and Wales.' It seems as if we were determined to force them into men's habits, and give them no quarter. 'A visiting magistrate,' whose experience closely agrees with our own, and with that of all who are at all acquainted with the subject, tells us:—

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'I have been often shocked with the jaunty indifference shown by many juvenile offenders to their position, and generally have found they were known as "gaol birds." These poor little fellows in their first incarceration seemed crushed with the horrors of the dimly lighted cells, and in tears and sobs uttered the touching appeal, "May I write to poor mother?"—but not so in their subsequent imprisonments. One soon perceives in their daily exercise nods, winks, and smiles to former associates. With them the fear and degradation of imprisonment have passed away, and the habitual criminal has begun his course.'

Instances enough to fill a volume are known to me of such cases that would harrow the best feelings of our nature. But our judgments are thoroughly convinced and there is no need to violate instincts and holy laws, for the perpetuation of that great evil—the imprisonment of children.

The fact is that the matter has come to a crisis. It is stopping the road at this moment. The magistrate of the Lambeth Police Court came to a deadlock on the 16th ult., which will, we trust, procure a final settlement of the point. He refused to sentence children because of the prohibition of the Home Secretary on the subject of their imprisonment.

At the same Court another phase of the difficulty was dealt with—stone-throwing in the public thoroughfares by boys, who were principally under fourteen years of age; and it appeared that from March 1 to August 1 there had been upwards of 100 charges and summonses for stone-throwing. In nearly all cases fines from 2*s*. to 10*s*. had been imposed; and when the offenders were older 20*s*., and in some instances the full penalty of 40*s*. Mr. Chief Inspector Sherlock reported that in the last three months there had been 164 complaints and charges. In the other metropolitan police districts also, it was stated, numerous complaints were made; and, notwithstanding the offenders were under fourteen years of age, it would require severe measures to abate the dangerous habit, which had increased of late, of young boys throwing stones to the danger of the public.

In one instance, the offender being a girl complicated the matter. There must be a difference made between the sexes in appointing the sentence that is to supersede imprisonment.

Fining, as a penalty, is inapplicable to the case of children, unless it is intended to affect the parents, which it is quite right to do. It does not directly affect the transgressor; and the parent is often able to avoid paying it. Poverty is a plea that excites pity, even when it is used on this score; and

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sympathy is not unusually manifested to these cases. It is difficult to conceive how the fine is procured by paupers without recourse to all sorts of dishonest devices. Corporal punishment at the discretion of the Bench, alternative with committal to a Reformatory or Industrial School, seems to be the most practical solution of the difficulty.

A proposition has been made to 'order any such offender between nine and fourteen years of age to be locked up in the Central police-station of the district, or in any nearer principal place of detention, for twenty-four hours, there to receive a whipping of not exceeding ten or twelve strokes of a birch rod, by a policeman appointed by the superintendent present at the time.' As an amendment, I suggest that the person to perform the operation should be the parent or guardian of the culprit.

I am aware that this presents a difficulty, but I believe it is to be overcome. Obedience to natural law is sure to be productive of good results. I am propounding a woman's view of the question, and I think it has a right to be heard. Even a mother can beat her boy. If she has to go to a police-office to do it, so much the worse for her; but it is better late than never to do her duty. I do not expect to hear that fathers would do the act either well or willingly, but that is just what they must be compelled to do.

It is the only way in which they can offer any apology to the community which is suffering through their children's conduct. There is no use in trying to excuse these parents on the ground that they are busy at work, and can't help their children's delinquency. They must be forced to try to do so. Without touching the parent it is hopeless to endeavour to probe this sore.

While we punish juvenile offenders we must not let the delinquency of parents go free. But there are moral suasions to which we should resort, and seek to influence the ignorant and ill-disposed by religious teaching, giving the opportunity to all men, as well as to their children, to learn the way of God, the everlasting Father, for the putting away of sin.

After punishment it is not the duty of the State to do any more in its judicial capacity, but in the theory of our paternal government is contained the germ of an extended treatment. For this we already have the special Schools provided, and we can only recommend the discriminate use of them.

The Industrial School ought to be used as an instructive rather than as a corrective Institution, and the Reformatory should be well defined as a penal place.

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In fact, there is room to improve both these schools, and the increase of their accommodation should depend on certain alterations in their circumstances. It is now well known that in dealing with morals it is indispensable to have a large number to operate on. Those who undertake to do such work must have a field of study, and a space for classification. The latter will be the practice of the principles acquired by the former.

The 'group' or 'family system,' which can be managed by organisation wherever that there are human materials, is the best means of individualising that can be used in the case of the juveniles that come under legal control; and it is much more effective, as a moral agent, when it is worked on a scale that gives sufficient variety of character, to provide opportunity to classify and associate discriminately, than when it is attempted on too small a number of children. The delinquents who come into our hands in their youth demand all that experience and skill can devise to prevent them from falling into vice and crime; and it is our duty and our interest to do all that is needful to this end, for their sake, and for the good of the community of which they and we are members.

A short paper on the same question was also read by Captain J. E. Christie, Governor of the Prisons, Edinburgh, who, after alluding to the attention given of late to this difficult subject, thought that experience pointed to an extension of industrial schools and reformatories as the most likely course to succeed. It would be highly desirable to give magistrates the powers of committing to reformatories direct. In this respect the magistrate should feel that his powers are not so restricted as at present. In the event of it being found necessary to send a juvenile to prison, the sentence should be one of imprisonment only, and it is well to bear in mind that in some cases it is dangerous to send to a reformatory. Industrial schools and reformatories should be constructed upon a model principle, and thinly populated places should be selected as sites. Magistrates should have special powers enabling them to punish misconduct in such institutions. To associate the juvenile delinquents' early youth with prison life is generally admitted to be a mistake, tending to impede ultimate reformation. Seeing, therefore, that it is recognised as essential to have the reformatories disconnected entirely from prisons, it almost appears to be a pity to make the one a stepping-stone to the other. It must not be forgotten that the juvenile delinquent is almost invariably the offspring of criminal and profligate

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parents. It stands to reason, therefore, that reformation should be aimed at before he is allowed by means of his own acts to come within the category of the criminal class. Moreover, by sending juveniles to prison indiscriminately, the deterrent effects of punishment are lost upon them. About the year 1846 a determined effort to grapple with the steadily increasing state of crime was made by Dr. Guthrie, my predecessor, Mr. Smith, and many others. This movement took the form of educating and bringing up many of the children of the criminal classes, so as to prevent, as far as possible, their following the evil examples of their parents. It is impossible to overrate the advantage that ragged schools have conferred upon the community. The only fault that can be found with them is that they are located in cities. If they could only be transferred to the country, their usefulness would be greatly enhanced. In 1859 the Wellington Reformatory was established. A visit there is all that is necessary to convince one of what can be done by a good plain Christian education combined with a thorough industrial training. The knowledge of machinery and the work turned out by the inmates are wonderful. Mr. Craster, the able superintendent, has appropriately termed industrial schools 'light-houses,' and reformatories 'life-boats,' the former having for their object prevention, and the latter the saving of juveniles from becoming hardened criminals. Mr. Craster, in 1877, gave this alarming account of the state of adult crime:—'The population of our own country is extending at the rate of 10 per cent. in Scotland, and the adult criminal population of Scotland is increasing at the rate of 60 per cent., while we, with our institutions, are diminishing juvenile crime more than one-half.' In 1847 the centesimal proportion of juvenile commitments under fourteen years of age was 5·6, whereas in 1879 it was so low as 0·6; and it will be interesting to know that out of 640 juvenile delinquents sentenced to detention in the Wellington Reformatory during the last twenty years, no less than 86 per cent. are stated by Mr. Craster as 'known to be leading honest lives.' It will be found much cheaper to keep people out of prison than in it. The cost of a prison inmate averages 21*l.* a year. If, therefore, you can keep them out of prison for 3*l.* or 4*l.*, besides the question of reformation, a great economy will be accomplished. But for the results of industrial schools and reformatories, I believe that the daily average of prisoners would have been doubled.

Mr. J. Bone also contributed a Paper on 'Neglected

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Children,' of which the following is an abstract:—How are we to save 'Neglected Children' from becoming 'juvenile delinquents,' without pauperising either them or their parents? is the great question not yet solved. We have only palliated, not cured, the evil, the supply is still kept up, the very liberality of the means of cure seems to have propagated the disease; thus we have tried feeding and clothing, to get children to school:—

In Edinburgh City Parish we support . .	787	children.
In St. Cuthbert's	1534	"
In Dr. Robertson's Vennell school . . .	230	"
St. Cuthbert's Industrial School . . .	100	"
St. John Street Feeding Home . . .	90	"
School Board Committee, feed and partly clothe	515	"
Heriot's Hospital entirely support . . .	180	"
Donaldson's " " . . .	220	"
Uncommitted children	3656	

	Boys.	Girls.
Of committed children in Original Ragged School (Protestants only) . . .	216	89
United Industrial School (Catholics and Protestants)	135	none
Mars Training Ship from Country 172, Deduct non-City boys 52 . . .	120	
In other schools, Dalkeith, &c. . . .	80	chiefly
Reformatories	50	
Boys . . .	601	
Girls . . .	89	
Total of committed children . . .	690	
Grand Total	4346	

Out of a population of 200,000, we have 40,000 between 5 and 13, more than 1 in 10, but deducting young children or some twice counted 1 in 12·21, or 8 per cent., with a total of 3,656 charity and 690 committed children, we have surely gone far enough in feeding without establishing one or more feeding schools, especially as a careful study of Dr. Littlejohn's returns of the number of public houses in each of the 18 districts of the city, compared with the addresses of the

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children in the two industrial schools, abundantly shows that those very districts, ay, and families which cannot support their own children, support two or three times the average number of public houses, it would be cheaper to supply them whiskey and let them feed their own children. What is really wanted is more power to compel a parent to provide sufficient food and clothing for his children; he can be punished by fourteen days' imprisonment for failing to educate; only by fine without imprisonment for failing to feed and clothe, and sending out children hungry and naked to pick up a living in the streets. The fines are levied but never paid. A boy will steal to satisfy his hunger, but not to get to school. Hunger and cold makes more juvenile delinquents than simple ignorance of the three R's. Let neglect of any sort, whereby children become a source of danger or a nuisance to the country be punished as a man neglecting his drains would be. Why should a man go scot free, or get rewarded by having his children fed and clad for him while he spends the money in drink? We in Scotland want the power, as in England, to imprison in default of payment—and if this fails why not apply the lash to incorrigible offenders? It cannot demoralise him so much as taking them off his hands —gratis, does. It cannot brutalise him; he is lower than the brutes already. Save the children by compelling the parent to discharge his duty; not by relieving him of it without any punishment but a fine, which is a farce. This indiscriminate fining is sowing the seed of future pauperism. Hard working, honest men, grumble that they have only to get drunk and spend their money, and their children will be better fed and looked after than they now are: the industrial school children must have so many cubic feet of air, be cleanly kept, warmly clothed, and well fed; but the poor ratepayer's children may enjoy or be none of these properly, only he may be called upon to pay for them for others to enjoy. We have not 'wisely considered the case of the poor.' The neglected children of the idle and drunken parent we have not considered at all, but rushed in to supply his place without thinking of the consequences to him or his neighbours, who are as poor but more honest. The true way to stop juvenile delinquency is to severely punish parental neglect.

In a Paper on the same subject by Mr. W. S. Daglish, reference was made to the answers given by the Home Secretary in the House of Commons as to juvenile offenders, and

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to his circular letter to the Mayor of Manchester, of September 16, 1880.

The Paper details the various modes of procedure against juvenile offenders, especially under the recent Summary Jurisdiction Act, 1879, and also the various charges under which children can be sent to the certified Reformatories or Industrial Schools.

It points out that juvenile offenders are increasing in number, and that offences, some trivial, but some serious, such as stone throwing, cruelty to animals, assault, &c., are now greatly in excess of the former number, and that if the Home Secretary's letter be carried out, and no amendment made in the law, the magistrate's hands will be tied in very many cases.

The Paper also suggests, that as the object of punishment is to deter, it should be done officially and under all possible precautions.

The author then makes the following suggestions:—1. That power should be given to justices to whip in any case under the age of fourteen years, or to send to a specified *Place of Detention* (upon the Manchester plan) for a reasonable period: but, in case of a third offence of an aggravated nature, with power to *imprison* for a suitable period, where whipping or temporary detention had proved unavailing. 2. That if it is shown that the offence is directly caused by the aid, consent, or omission of the parents, power should be given to inflict a fine upon them. 3. That the objects and powers of industrial schools should be extended, so as to make them *compellable* to take any boy, sent by justices, without having their present power of declining. 4. Compulsory contributions by all county or rating authorities, to establish or contribute to reformatories or industrial schools. 5. The placing of industrial schools and reformatories upon the rates, without the necessity of private contributions. 6. That the present plan of sending a child to prison for ten days before going to a reformatory should be abolished. 7. That a power of supervision (not police) be given to managers of reformatories and industrial schools, for at least one year after leaving, and to enter into apprenticeships on their behalf. 8. That increased power be given to recover contributions from parents.

Mr. George Fawcus, of Tynemouth, also sent the following short paper:—The dangerous classes become so from either an excess of combativeness, destructiveness, or other qualities misapplied, which, if diverted from mischief and prac-

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tically directed to a useful end, might do the State some service. Many an outrageously troublesome young fellow has been redeemed from his evil courses to his friends and society, by his enlisting into the Royal Engineers, where, after a course of judicious training, he has had useful qualities developed and matured, when little expected, with habits of punctuality, regularity, and order instilled into his very nature by constant military discipline. Hence this question becomes a national one, in the prospect of a difficulty of obtaining suitable recruits for the army and navy, when this very spirit of mischief and restlessness might be subdued by the practical exercises, in early youth, of engineering and seamanship, and thus converted into cool, disciplined courage, daring, and manliness. Public attention having recently been so much directed to these questions of Spartan education or training, it is clearly noticed that a double advantage might thus be obtained by the establishment of camps of instruction, and miniature training vessels in bays and creeks, where the minor and major operations of war might be taught, as a step, in preparing orphans and neglected children for the real battle of life on land or afloat. The arts of war and peace react on each other, in a manner and to an extent that is perhaps not generally known.

DISCUSSION.

Mr. T. Barwick Ll. Baker (Gloucester) said he felt in rather an awkward position, seeing that he took a different view of this subject from the majority of those whose papers had been read. The question was one of considerable importance, and he might add that, in the correspondence columns of the *Times* lately, a friend of his had opposed all that he had written on the subject. That gentleman thought he was entirely wrong, although he allowed that he (Mr. Baker) was in exact agreement with Mr. Sydney Turner, the two present inspectors of schools, and the majority of reformatory managers in England. All those who had known Mr. Sydney Turner and Mr. Rogers would, he thought, feel that their opinions were not lightly to be thrown over. It appeared to him that not only were errors promulgated and mistaken opinions sent forth to the world regarding juvenile delinquency, but that these errors seriously affected the very class they were intended to benefit. A mistaken intention to do as much good as possible seemed to have run into what he could not but believe was greatly to the prejudice of criminal juveniles. In Scotland these mistaken ideas seemed to have held their own, and in England they seemed to have died away until all of a sudden they were revived by certain gentlemen of no very great experience. For instance, he heard it said that if a boy was

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sent to prison he was branded for life as a gaol-bird, and lapsed into habitual crime. Now he would simply ask, was this so? If it was not, he asked those present to consider the evil they were doing to those boys by telling the public that the lad who had once been in prison could never retrieve his character. The statistics taken from the gaol reports showed that during the last five years the average number of children committed to prison in England, Wales, and Scotland was 9,300 per annum. Of these 1,617 on an average were sent to a reformatory, leaving 7,683 who were sent simply to prison. If they were to go by what was commonly heard expressed they should suppose that 7,683 children were added every year to the criminal population of the country. If that were so the criminal population would be many times more than it now was. But what did they find to be the number of juvenile relapses per annum? Not 7,683, but 666, or not quite 1 in every 11 sent to prison. He asked the Section to consider these figures very carefully, and if it could be shown they were wrong he could only say he would be extremely obliged to have them corrected. If he chanced to be right, and if Mr. Sydney Turner was right in his opinion, he hoped there would be less said about a boy, once corrected, being turned into a criminal. He had watched a large number of boys who had been in prison, and he could say from his own knowledge that by far the greater number of them were going on steadily and well. If they were convicted twice they ought to be sent to a reformatory; but after a first conviction they generally got on well, as he had said, and after a lapse of three or four years the question with them (he was not speaking of Scotland) would never occur of casting in a boy's teeth that he had been in prison. He could not but believe that this feeling would extend to Scotland. It was, he considered, doing a cruel wrong to children who had gone wrong to adopt the attitude he had spoken of towards them.—The CHAIRMAN asked whether, of all the children under sixteen years of age that had been committed, only 1 in 11 had turned out criminals?—Mr. BAKER replied that only 1 in 11 had been committed a second time under sixteen years of age. Some doubtless would be committed after sixteen, but there were no statistics.

Mr. JAMES WALLACE, Advocate (Edinburgh), said he wished to emphasise one portion of Mr. Scott's Paper relating to the class of cases brought before the justiciary court and the police court. It must be perfectly plain to any lawyer who had practised in the court that many of the cases brought before the court of justiciary were such as might with advantage be disposed of by inferior judges; and, on the other hand, that many of the cases now tried by inferior judges might with advantage come before the High Court. Mr. Scott had shown that in very few instances were juvenile delinquents brought up before the police court defended in any way at all, and it seemed to him that this was a crying scandal of the present system. They had at present a most admirable system of agents and counsel for the poor for cases in the High Court of Justiciary and the sheriff courts, and so particular were the judges in the High Court as to prisoners being defended that such cases would not be allowed to proceed until counsel was present. On circuit, if no counsel were in attendance to defend poor prisoners,

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the sheriff of the county was bound to be present for that purpose; so that the very greatest care was taken that prisoners brought before the High Court and the circuit courts should be well defended. In the police courts, however, no provision of this kind was made, and poor little boys and girls, charged for the first time, were utterly destitute of any means of defending themselves. There was one weak point in the system of poors' agents and counsel—they were not paid. Now he thought the agents ought to be paid. He did not say that the counsel ought always to be paid, because he knew that many young advocates were glad to get an opportunity of practising in poor cases. But with agents it was a different matter, because in order to get up a case properly it was necessary often to go to considerable expense, and it was impossible to expect an agent to do that unless he received remuneration. He considered that agents ought to be reimbursed by the local or State authorities. As it was he thought that poors' agents were entitled to the very greatest praise for the manner in which as a rule the cases are prepared. As to the paper of Mrs. Meredith, that lady had referred to the case of a boy who had committed an enormous number of offences, and showed how in each case there had been no prosecution, on account of the unwillingness of the parties against whom the various offences had been committed. The Section, he hoped, would pardon him if he observed that in Scotland this could not have happened, and the reason of it was that they had a public prosecutor. It was not left to private parties to prosecute or not as they chose.

Mr. Arthur J. S. Maddison (London) said that in Middlesex children up to fourteen years of age charged with an offence punishable by imprisonment could be sent to industrial schools (in other parts twelve was the limit), and as this plan had been found to work well there, there seemed no reason why this clause should not be extended and made universal in its application. The main objection to industrial schools was their expense, but he ventured to submit that those who raised this objection rather over-calculated the expense and under-estimated the results of these schools. One means had been proposed for reducing the expenses, viz., detention for shorter terms in the industrial schools. It had been urged that it was not right that the terms in these institutions should be so long, and that in abolishing the imprisonment of children they would have to substitute industrial school sentences of a year or less. This would be short-sighted policy, for, although it might save money at the time, the proportion of good results would be reduced. He might call attention to another fact that Government made no grant in the case of very young children sent by magistrates to industrial schools. There was a certain class of young children for whom special provision had been made under the Prevention of Crimes Act—the children of convicts. Although the Act sanctioned those young children being sent to the schools, no provision was made for their maintenance until they had attained the age of six. Another question bearing on the subject was that of dealing with the parents. The expensive training given to a child in an industrial school could be upset through that clause in the Act which enabled a

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parent, as soon as a boy had attained the age of sixteen, to overrule the decision of the managers of the industrial school, and prevent their placing him in that situation in life which they might think best for the lad's welfare. A good plan would be—and it had been successfully tried in the colonies—that children sent to industrial schools should be under the control of the managers until they had arrived at the age of twenty-one, unless the parents were willing to pay the full expense of their maintenance. That plan would obviate to a very great extent this difficulty, for he believed that more than half of the failures in connection with the schools was owing to this overruling of the managers' decisions by the parents. As soon as a boy reached sixteen years of age the managers perhaps would say: 'We wish you to go into the army.' But the parents would say, 'No. It is true *you* have trained him, and it may-be my boy would like to go, but *I* want him. He is of use to me.' And so the child was taken away, often to the miserable home of drunken parents, and nothing could be done. Again, they should not confuse the two questions of the imprisonment of children and then passing them from the prison out into the world, and their imprisonment previous to passing them into the reformatory. A child eligible for the reformatory was supposed to have something of an adequate idea of the evil he had done, and therefore deserved punishment; but he did not quite admit that with regard to children sent to industrial schools. The question was, what were they to substitute for imprisonment in such cases? When a substitute was found they should be better able to judge of it; but that a punishment was required was admitted. It had been urged that a child should be sent to the reformatory and punished there, but they must bear in mind the good results achieved hitherto by the reformatories under the present system, and it would be a grievous thing to have any alteration of the Act that would interfere with these results. He believed that great injury would be done to the work of reformatories if the first thing that a boy or girl experienced there was punishment. At present children who went to reformatories had undergone punishment, and on their admission and from that time forward the reformatory was regarded as a school and a home—under strict discipline, it was true, but it was in no sense a prison. With regard to reformatories, he thought an alternative was required to ensure detention in them up to at least the same age as the children were detained in industrial schools. Under the present law if a boy of ten were sent to a reformatory he got his release sooner than if sent to an industrial school, because the full term of sentence in the former was five years; therefore he would get his release at the age of fifteen. If sent at the age of ten to an industrial school, he would not get his release till sixteen. But as a boy could be sent to a reformatory up to the age of sixteen, it frequently happens that he was detained up to the age of twenty-one; although it was the custom to license the older boys before they attained that age. What was wanted was that this latter system should be universal—that the managers of a reformatory should have the *control* of a boy—whatever his sentence—until he reached the age of twenty-one. Not necessarily that he should be *detained* in the reformatory till

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that age, but that if he went out previously, as he should generally, on license, the managers could recall him and redispose of him in the event of his getting into bad company or under evil influence. From various causes there was still a class of children under sixteen who could not be sent either to a reformatory or industrial school, and for these the three alternative punishments were imprisonment, fine, and corporal punishment. Fines might be very good in some cases, but they did not fall equally on rich and poor, and to that extent an injustice was committed. With regard to imprisonment, Mr Barwick Baker had argued that it did no real harm to a boy. He was not going to say that a boy was ruined for life because he had been sent to prison, but that harm did accrue in several ways to a lad from being imprisoned was evidenced by the fact that the public thought so. That of itself was an injury to a lad. Then, again, if a lad who had been sent to prison afterwards got into trouble again, and kind friends wished to place him in a voluntary industrial school, that boy was no longer eligible either for that institution or a voluntary training-ship; so that here were two distinct injuries inflicted on a boy by the statute of imprisonment when disconnected with a reformatory sentence.

The Rev. Dr. Ace (Laughton) said that, although Mr. Baker maintained his opposition to the abolition of imprisonment for children, at the same time it was clear there was a general consensus of opinion in England that such a system should no longer exist. He approved of what Lord Derby had said on the subject at Manchester—that it was open to discussion what punishment was to be substituted for imprisonment of children. It had been said that reformatories were in no sense a place of imprisonment. If they were not, he should like to know what they were. On the previous Saturday he had made inquiry respecting a reformatory near Edinburgh, and the governor told him that punishment was resorted to, but that the boys behaved so well that he had not had occasion to use the cell for a long time. The cell, in fact, was now used as a potato store. Whilst he agreed with many things that had been said that morning he disagreed with many others. As to the boy who had been spoken of, he thought it very wrong of parties not to have punished him. A few stripes of the birch rod would have been of great use to him—although he was no advocate of Draconian severity—if the story was true. It was a great pity that the parties concerned did not prove him to be a delinquent. To merely assert that he was such was to do him an infinite injustice. Again, he would like to see that law repealed which sentenced a boy or girl to imprisonment before being sent to a reformatory or industrial school. Was he to be told that all the good effects of such institutions resulted from the incarceration of a delinquent? Who was the individual that dare say that? If a child must be chastised, let the punishment be given by the police—an operation which he would remember for life. He did not think the mother ought to be present when chastisement was inflicted. As the offence had been committed against the State the proper person to inflict punishment was the policeman. The Governor of Swansea Prison told him that a few weeks ago a little fellow was sent to that gaol, and he did not know what to do with him.

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Accordingly he remonstrated with the magistrate, and told the latter that a few stripes would do the child more good than a term of imprisonment. He had no doubt that some mode of inflicting punishment on children would be discovered without sending them to the common gaol.

> Quid suadet juveni lætus stridore catenæ,
> Quem mire afficiunt inscripta ergastula, carcer
> Rusticus? [1]

Miss BURTON (Edinburgh) said that in going amongst people desirous of obtaining aid from the Society for Improving the Condition of the Poor she had found that all those who neglected their children wasted their money on drink. She thought that to feed the children of such parents was very hard on the industrious poor. Something should be done, she considered, in regard to the parents. Some of these parents were capital workers, but they were quite incapable of taking care either of themselves or their children. She herself had given them work, but they had pawned the material—they had put them where their own and their children's clothes were. They had told her, in short, that nothing could be done with them unless they were shut up. Now, would it not be well if these parents could be put in some sort of home—not in prison—and their skill and labour turned into account? They might be allowed to go out during the day, if necessary, to work, but as they would not receive the money for their work the dram-shops would soon lose their customers. If the parents were got hold of she considered it was possible to get a good deal of work out of them if the thing was gone about in the right way. It was bad to take children off their parents' hands. So the great matter which ought to be taken into consideration was how to deal with drunken parents. There was a Habitual Drunkards' Act for people who could not manage themselves, and she thought its operations ought to be extended to those parents who drank instead of attending to their children. Flogging, again, was a process that agreed with some children and not with others. Some people were like dogs —if you whipped them they were happy afterwards; but with some flogging only made them more troublesome. It was therefore very difficult to know when and when not to inflict such punishment.

Mr. G. W. CHILD (Oxford) said he had listened to Mr. Scott's Paper with a feeling akin to despair. When he looked at the way in which the country was burdened with rates, &c, he thought that if every boy who pulled up a turnip and stole it was to be tried before a bench of judges, and defended by a Q.C., the burden would be too heavy for their pockets. Some subsequent Papers appeared, however, to throw considerable light on the practical way of looking at the matter. The subject seemed to divide itself into two different heads: First, what is to be done by courts of law; and, second, by subsidiary agents, such as reformatory schools. He held that they were losing sight of the first intention of the courts of law, which was not the protection of the criminal classes, but the protection

[1] *Juvenal Sat.* xiv. 23–25.

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of the public against the criminal classes. That distinction had been a little lost sight of in the discussion. He did not think it possible for the courts of law to make all these exceedingly nice distinctions, which had been very properly insisted upon as being necessary in the preventive treatment of crime. This could not be done by a court of law, but it might be done by many other agencies spoken of. The great object was to keep children out of courts of law. When they did find their way to such courts, it was impossible to make those distinctions between them and grown-up persons which had been suggested. On one occasion three boys, between the ages of fourteen and sixteen—one of them a few weeks over fourteen—were brought before him charged with having broken into a cricket pavilion and stolen several pairs of shoes and other articles. Of course it was undesirable to send children to prison for a first offence, and at his suggestion the culprits, who were employed at a printing and in a paper mill, were fined, the fine being spread over six weeks, and to be paid in weekly instalments. He called upon the managers of the establishments where they were employed, and they kindly undertook that they should not lose their situations. Still, the result was not satisfactory. At the end of a month or two only one of them had paid his fine, while the other two had absconded and were on the road to ruin direct. It was really not so easy to draw a hard and fast line between the age of thirteen and fourteen, or any other age which might be mentioned. The conviction produced on his mind by the discussion was that the great point to be aimed at was not so much to meddle with the courts of law as to keep children out of the courts—to keep them out of gaol and the criminal dock. Another point to be kept in view was to keep the burden of supporting children on the backs of their parents by some means or other. If they did that they would have done a great thing; and until they managed that the only result would be to multiply parental neglect on one hand and gin-palaces on the other. At the present moment a really humane desire on the part of magistrates and others had done more real harm than good. It was said that if they fined a child they fined its parents, and that in a certain number of cases the burden fell upon widows or other persons who had but little means of subsistence. In the vast majority of cases, however, it was eminently satisfactory that the parents should be fined, but, as a matter of fact, they were often let off on the score of their poverty. He believed something very like Draconian severity was wanted in this matter. The agencies now at work in reformatory schools, &c., had opportunities of discovering the condition of parents and how they discharged their duty to their children, and it was clear to him that if these particulars were represented to the magistrate he would not be quite so easy about that matter as hitherto. If they would insist on measures of severity, and back that up by imprisonment (not of the children, but of the parents), then a good work would be accomplished. In conclusion, he must express his surprise at the odd way in which Sir William Harcourt had commenced his dealings with juvenile criminals—not by amending the law, but by bullying the magistrate for carrying it out as it stood. The magistrate could not

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break the law in accordance with the fads of the Home Secretary. Sir William Harcourt, he thought, showed indifference to fair dealing, and ignorance of law, in recommending the magistrate to carry out a punishment forbidden by the law in the case of W. Deane, and attacking them and holding them up to obloquy for doing that which it was their bounden duty to do.

Mr. W. Paterson (Glasgow) expressed surprise at the statement of Mrs. Meredith, that she had come across many professional thieves who wished to redeem their children, and have them properly educated and brought up beyond the reach of evil influences. He had grown grey in his capacity of Secretary to the Prisoners' Aid Society in Glasgow, and since he first became connected with it, upwards of twenty years ago, he never knew a single case of the kind to which Mrs. Meredith had referred. The officers of the society had had the same experience. His business there that day was to plead on behalf of that very class to which Mrs. Meredith had referred—the children of thieves. Since the Glasgow Delinquency Act, 1878, came into operation, they had had their attention drawn to this subject. They had been aided by the magistrates, who had from time to time brought under the notice of the society such cases as it was thought proper to deal with. They had sent twenty-five of these cases to the industrial schools, training-ships, and otherwise. They were the children of parents who were either one or both of them in prison and for whom no one cared, and if left alone the inevitable consequence would have been that they would have entered on a career of crime. The ages of these children ranged from seven to thirteen, and they could be taken care of in the different institutions to which they had been sent until the age of sixteen. In Glasgow, so far from such children being diverted from evil courses by their parents, the reverse was the case. Crime descended from parent to child. Under these circumstances, he appealed to the different Prisoners' Aid Societies to take steps in the direction he had indicated, and which was undoubtedly within the sphere of their action. These children were not criminals, but they were so nearly allied to the criminal class that he did not think the societies would be going out of their course in attending to these children. Every one of them saved would be a brand plucked from the burning, and do away with large expense in the future.

The Rev. Wm. Vincent (Postwick, Norfolk) said there had been, he thought, a great deal of reckless talk about the way in which juveniles were treated, and his impression was that magistrates were exceedingly cautious as to the manner in which they dealt with children accused of crime. It was not to be supposed at all that there was reckless sending of children to gaol. He did not believe that for one moment. There were often paragraphs in the newspapers about children being sent to prison for petty theft, but if the public knew the whole circumstances they would acknowledge that magistrates were not careless or harsh in their dealings with such delinquents. He had been glad to hear testimony which was by no means in favour of wholesale whipping. The other day, when a kindred subject was being discussed, the ladies specially were excessively in favour of whipping; but he really believed

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they were beginning very frequently at the wrong end. He considered that there should be careful discrimination in each case; if it was found that the child had bad parents then it ought to be sent to an industrial school or reformatory, whatever the cost to the country. It was far more important that they should be taken away from homes where the influences were bad; and although it might be said this was a State offering for the evil-doing of parents, certainly in the long run it would be for the welfare of the young criminals themselves, and the benefit of the community. On the other hand, if it was found that the child had a respectable home, and that the parents were really trying to make him better, he should say, Let the magistrate require these parents to whip or punish the child. In such cases he thought the parents' authority should be exercised. For a second offence, such parent ought to be fined. There was a terrible want of parental authority even among respectable parents of the poorer class. The fifth commandment was being more and more forgotten, and children from the earliest age were allowed to set at defiance the authority of their parents. Sometimes children absented themselves from school, and their parents would say they could do nothing. What they wanted to do was to teach the necessity of obedience, and this was one way in which they could teach that that divine commandment was really for the welfare of the State. It was the business of the parents to see that their children did right. On the whole question, he considered that it was most desirable discretion should be allowed in the administration of justice to juveniles. If a child for certain offences was to be whipped, he considered that there should not necessarily be that limitation of punishment, but that the magistrates should be trusted to look into the circumstances of the case, and be permitted to exercise a discretionary power. A great deal had been said about the way in which imprisonment disgraced a child for ever. Too much had been said about that. If that were the case, why not alter at once the law which made imprisonment the alternative of not paying a fine? In administering the law he disliked particularly having to tell a man that he must either pay a fine *or go to prison* for an offence which, though against the law, might not be a stain upon the character. He thought it was a slur on a man's character, and indeed an insult to him, to be told of imprisonment before he has expressed unwillingness to pay the fine imposed. And if it was said that to be imprisoned was a lasting disgrace, then he would say, at all events let them alter the law which told a man there and then he must go to prison in default of payment of a fine.

Miss Florence Davenport-Hill (London) considered that a great evil lay in the fact that it was not generally recognised that the duty of parents to support their children is not abrogated by those children being sent to reformatories and industrial schools. More than forty years ago the then Inspector of Prisons for Scotland—Mr. Frederick Hill—proposed that parents should pay the expense of their children while in prison. That most just proposal was never carried into effect, but the principle was embodied in the Reformatory Schools Act of 1854, and had been found to work well wherever it had been honestly acted

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upon. Unfortunately, the feeling had lately grown up that the poverty of parents was a plea for relieving them of the natural duty of supporting their children, and she considered that magistrates had a good deal to answer for in this matter. It was often very difficult to induce them to fix an adequate amount for the parent's contribution to the support of his child in these institutions. An instance occurred to her at the moment of a man who was in receipt of 30*s.* a week, and who had three children. The conduct of one of them, a boy, caused him to be sent to an industrial school, when the sum appointed for the father to pay was 1*s.* a week, a very small proportion indeed of what that child would cost to the country, and also far less than his maintenance at home must have cost. The outcome of this was that, not very long afterwards, another child of the same man qualified for an industrial school, and for this one the father was required to pay only 1*s.* 6*d.* a week, although, as his remaining child, the eldest of the family, was by this time working for her living, he had no others dependent upon him. With reference to the alternative of imprisonment—never, however, she would urge, to be employed unless other means were impracticable—possibly in some cases a short term, not exceeding a month or so, might be the best means of arresting descent into the criminal class, especially where imprisonment was guarded, as she believed it was in Gloucestershire, from the evil influences which usually attend it. But remembering the efforts it cost a quarter of a century ago to put an end to the imprisonment of children, it had given her a severe shock to learn the large numbers that were now consigned to gaol; and she rejoiced that the Home Secretary had fixed public attention upon the fact. Mr. Maddison had spoken of the advantage which would accrue, in regard to the ex-pupils of reformatory and industrial schools, from retaining authority over them until they have reached an age at which they can take care of themselves, and especially until they can repel the influence of bad parents. That she considered a very important matter, and she entirely agreed with his suggestion that the period of control should be extended to the age of twenty-one; not, of course, that the young people should be kept in the schools until that age, but that the period of licence should be continued to that limit. This was the rule in some of our colonies. She had herself inquired into its working in Australia, and found that the results were satisfactory. At the present time, in this country, a child often left these schools at an age when he was unable to resist temptations, especially those into which he might be plunged by wicked parents, and the State had reserved no power to itself to protect him until he was of an age to do so, thus not only risking the loss of the money spent by the community on his education, but—what was far worse—leaving him to grow up to be a bad instead of a good man.

Miss Lydia Becker (Manchester) said the whole tone of the discussion was based on the assumption that they were called upon to deal with an increasing evil instead of a diminishing one, and that they wanted fresh machinery to cope with it. Within one arc, the centre of which was Manchester, the number of juvenile offenders had decreased from 1,000 per annum at the time of the passing of the Education Act

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to 200 last year. It was, therefore, a matter of satisfaction that the elementary schools were making so sensible an impression. One of the suggestions made was that a child should not be brought to trial for a first offence, but it appeared to her that if a child was accused of an offence it had as much right to a fair trial as an adult. A great deal had been said about the term of imprisonment passed on a child before entrance to a reformatory. At first sight this might seem objectionable, but there was something to be said on the other side. They had to judge, not altogether by the effect of this system on the children who had committed offences, but also the effect on those who did not commit offences, and it was very likely that this preliminary imprisonment acted as a deterrent. If a term of imprisonment tended to keep a child out of the reformatory, then it attained the purpose which it was no doubt designed to serve, and it would be well to inquire into this before inferring that the provision in question had not been beneficial. As to whipping, if it were to be resorted to at all, it should be inflicted by some public authority. She was afraid it was true that the whipping of children by their parents would promote unchecked violence towards young children. It frequently happened that when parents alleged they were unable to make their children go to school, the mother or father would say, 'I have beaten him thoroughly well.' She did not think that a child could possibly honour or love a parent who was in the habit of beating him. The unchecked beating of a parent, under the notion that he did so on divine authority, was likely to operate injuriously.

Sheriff Spens (Glasgow) said it seemed to him that the two subjects ran together very much—destitute and neglected children, and the subject of criminal juveniles. With regard to punishment for criminal offences, it had been stated by one of the speakers that in a case of theft a fine had been inflicted. In Scotland, as a matter of fact, he was not aware of fines ever having been inflicted in cases of theft. If done in Scotland at all, such cases must be very rare indeed. Theft did not seem to Scotch magistrates a description of offence which it was proper to punish by fine. The other descriptions of punishments were whipping and imprisonment. In his own experience he had never ordered a whipping for a child. He was utterly opposed, in fact, to the whipping of children, and for this reason, that he believed it was impossible for a magistrate to gauge the dispositions of a child brought before him for the first time. If a child was of a sensitive disposition, the public indignity of the lash might utterly pervert it. With regard to imprisonment, he quite agreed that it must not be understood a child brought up for the first time was to get off scot-free. In Scotland, in the case of children under fourteen or fifteen, it is required that the parents or guardians should be brought up at the same time. That was the law, and the Court of Justiciary would suspend cases of that kind where the parents were not present. In presence, therefore, of the parents, his practice with regard to children brought before him for the first time was to warn them solemnly that, in the event of a second offence of the same description, they would be sent to a reformatory for five

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years. The result of his experience throughout had been that he only recollected two cases in which such children had been brought before him again. He did not think that imprisonment with these children weighed anything compared with five years in a reformatory. With regard to reformatories, his experience was that they were not good for children, and that few children indeed came out of them who led honest lives. On the other hand, he had the greatest belief in industrial schools, and he would strongly advocate that there should be a great extension of that system. There was a clause in the Industrial Schools Act to the effect that a child accused of theft, if under twelve, might be sent to an industrial school; but if the magic limit of twelve was passed, and a sentence had to be pronounced, that child had to undergo ten days' imprisonment, and thereafter be relegated to a reformatory. He would strongly urge, therefore, that the limit of age should be changed from twelve to fourteen. He was decidedly of opinion, also, that the children of vicious parents should be sent to industrial schools, and that course might, he believed, be put safely on political and economical grounds. Whenever children were found going about the streets using blasphemous and obscene language, that fact of itself was sufficient to show that their guardianship was unsuitable. Accordingly, such children as well as neglected children should be compulsorily taken away from their parents. He believed that that could be done in Scotland at the present time under the operation of the Education Act. In the case of parents complained of under that Act, if the children were being neglected or perverted by their legal guardians, the sheriff should have power to order them to an industrial school. He supposed that all of them were agreed that the parent should be made to pay for this; but he did not think they could take the parents away and shut them up for the support of their children. He thought, however, there might be some other scheme of getting at the parents. He would propose that where the sheriff made such a finding as he had referred to, the parent deemed unfit for the guardianship of a child should be made to contribute a certain amount towards its support. That could be done under the Industrial Schools Act, but there were certain cumbrous forms in the Act necessary to be gone through. He would simply propose that the sheriff-clerk should send a certified copy of the finding to the employer, and that the employer should be bound to deduct from the weekly wages of the parent a certain sum, and see it paid to the industrial school. If, however, it could be proved that a parent had left his employment for the purpose of avoiding that tax, then he would make that a criminal offence.

The Rev. W. Graham (Newhaven) said that the question had often occurred to him, since acting as a prison chaplain, whether or not children of the age of twelve or even fourteen were in any sense morally or legally or criminally responsible to the State. His belief was that up to the age of twelve and fourteen, and even sixteen, such children were, properly speaking, objects of care upon the part of parents, and ought to be under their moral and educational training. If, however, through the neglect of parents, the State came to be in the position of *in loco parentis*, then, in his opinion, more moral

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suasion and less criminal punishment ought to be resorted to. He strongly protested against the idea of imprisonment of children, even up to the age of sixteen. He disagreed entirely with the remark of Mr. Baker that, although some 7,000 or 8,000 young children had been sent to prison, only 600 came back, and that that was presumed to be the effect of the imprisonment. Notwithstanding that such a large number did not come back, he still held that they had the prison brand upon them. Therefore, he objected to a child under the age of responsibility, and who should, according to the Education Act, be under the control of the parent or State, being imprisoned. It was wrong, according to his belief, to send to prison children even as old as sixteen years. At that moment he was sitting beside a magistrate of Edinburgh who had told him he was very averse to sending children to prison for a first offence. Ex-Provost Lindsay, of Leith, also had told him that he used considerable discretionary power, and often would rather not enforce the penal law if he saw that moral influence would have a better effect. That gentleman was very loth to send children to prison. It was a pity they did not look more to moral suasion, rather than to the education, such as it was, of the prison or the reformatory. He thought they were all agreed as to the objection to a child passing some time in prison before entering a reformatory. Even the reformatory itself was a brand upon a child, in some cases as painful as that of the prison. On the whole question he should say that they ought to be very slow to recommend the imprisonment or confinement in a reformatory of children under fourteen years of age. He did not like the word reformatory. He had in his mind's eye the Mars training-ship and the Industrial School. These institutions avoided as much as possible anything like punishment.

Mr. William Macdonald (Edinburgh) said that children as young as nine years of age were inmates of the institution that had been referred to, and he believed that at this moment the children under twelve in reformatories could be counted by the hundred. He considered that the door of the reformatory was too easily opened for the child, while the door of the industrial school was too easily shut against him. This was a question he thought the Section ought seriously to consider. Something had been said about juveniles on the second conviction being sent to a reformatory. All of them knew that the memory of past misconduct, both in old and young, would rise up at all times against them in judgment; but he considered that there was no danger they could possibly think of equal to that of dealing out imprisonment to young children, even on a second conviction. He hoped that their English friends would not go away with the belief that Scotland or Edinburgh was filled with juvenile criminals. It should not be forgotten that there were two courts in Edinburgh which dealt with these young offenders—the police court and the sheriff summary court. It was not uncommon for a child from the country to be charged at the sheriff court with stealing a turnip. That child had, of course, committed theft, because the property of the farmer must be protected; and not to recognise that would be somewhat dangerous. The child could be charged with

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nothing less than theft, and it pleaded guilty because it was guilty. No judge, to his knowledge, ever sent to prison a child for that offence; but then the conviction was recorded, and in a year or two he might steal the rabbit of his playfellow. That of course constituted a second conviction, and no matter how humane the judge might be, the law left him no choice. He could not send such a child to the industrial school because of the second conviction. He hoped that even those who pleaded for sending children to reformatories for a second offence would realise the great responsibility they incurred. To revert to another question. No children were brought before the police and sheriff courts whose parents or guardians were not also present, so that what was recommended in Mr. Scott's Paper was at present actually done in Edinburgh.

Mrs. Duncan McLaren (Edinburgh) said she had been surprised that so much time and thought had been spent by this Section in considering which was the best method of punishing boys, especially with regard to birching. For her part she did not believe in the virtue of such punishment when inflicted upon boys, many of whom were in reality acting upon almost the only education they had received from vicious parents. She remembered once expressing disapprobation of flogging to a lady in this city, who, quite startled, said, 'Why, whipping is a divine institution!' She (Mrs. McLaren) replied, 'Not of the God I worship: His most potent instrument is love.' Long ago she had the privilege of accompanying Elizabeth Fry in one of her visits to Newgate Prison, where women of the worst character were assembled in a room to listen to her noble and touching ministry. One woman, apparently more abandoned than the rest, used every mocking gesture she could think of to arrest the attention of the others and turn the occasion into ridicule. But as Mrs. Fry opened the Old Testament and read in tones which needed no organ to heighten their music, 'Though your sins be as scarlet, they shall be as white as snow,' and then turned to the New Testament to show by what manner of love this purifying process was to be attained, and when she read in the Saviour's own words of His love for sinners, that hardened woman's heart was touched, the tears rolled down her cheeks, and she seemed the most penitent there. She (Mrs. McLaren) said the loving care of Christian women could reach the hearts of hardened boys more effectually than the lash. The lash might act as a restraint, but it did not change the heart. She did not believe in large reformatories, though they were a step in the right direction. Children of different degrees of criminality were brought together, which was undesirable. She would like to suggest for the least criminal boys the boarding-house system, which had been proved to work so admirably with regard to workhouse children, and she believed the results would prove equally satisfactory with the children under consideration, if placed in carefully selected homes, where there should, of course, be proper provision made for their education and industrial training. The inspectors of such homes ought to comprise women as well as men, for a woman's eye could best detect whether the right persons had been selected for the work.

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Mr. Mark Whitwell (Bristol) deprecated the sending of a child to prison. He wished the prison to be regarded as a place to be dreaded, and one that no child should be made familiar with; but if a child had once been sent, he probably did not find the place quite so dreadful as it had been pictured, and did not therefore fear so much returning to it. He agreed with those who advocated the extension of age from twelve to fourteen in the case of children liable to be sent to an industrial school. As to the responsibility of parents, he feared that the majority of them did not recognise, and could not be induced to recognise, the duty they owed to their children. He would have such parents dealt with as heavily as might be thought proper. The present system with regard to commitments to industrial schools was, he considered, defective—he did not speak so much of the operation of the Act in Scotland as in England. At present, when a magistrate sent a child to an industrial school, it did not rest with him to assess how much the parent should pay, but with the officer of the Home Department who sent up the record of the committal, and suggested, just as he thought proper, that the parent should pay such and such a sum, 6*d.*, or 1*s.*, or 1*s.* 6*d.* a week. When this officer could not get the amount fixed from the parent, he came to the magistrates and charged the parent with not fulfilling his contract. Now, he advocated that the magistrates themselves should assess the amount to be paid, and that the parents should be obliged to attend court when the children were dealt with, and that the magistrates, through their officers, should ascertain the amount of their earnings, and lay down the sum they would have to pay. That amount should be insisted upon; and, if they failed to pay, their goods should be distrained upon. If this was impracticable, the parents should be sent to prison. He was utterly out of sympathy with those parents who neglected their children. One speaker seemed to think that certified industrial schools were sowing the seed for the creation of city Arabs. He hoped he had misunderstood that gentleman, for he did not think anyone could argue that that was the probable effect of these schools. He considered that their effect was to diminish the number of city Arabs, and to cut off the future supply. If these children were not put under proper training, the probability was that when grown up they would rear a race of children like themselves, and thus perpetuate the evil; whereas, if properly trained, their children would in all likelihood grow up with good habits, and be a blessing instead of a curse to society. He approved of the suggestion that emigration might be resorted to, to a considerable extent. He believed it would be a great advantage if children who had emerged from industrial schools were sent abroad, and there given an opportunity of starting afresh. At different times he had helped to send children to New Brunswick, and last year, when he visited them, he found they were growing up to be industrious citizens. He had known cases, too, where boys had appealed not to be sent back to their parents, because of the certainty that if they were sent they would fall back into their old habits. He should like to see that clause in the Reformatory Act repealed which compelled a magistrate to send a child to prison for at least ten days before being consigned to a reformatory.

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He thought that a magistrate should have at least some discretion in this particular. Let him have the option of sending a child direct to the reformatory. He did not think that certified industrial schools should be placed in a remote part of the country. Children in an industrial school ought to be taught that they were so to conduct themselves that they might be trusted in an ordinary civilised community. In the school with which he was connected they did not even lock the gate, and the boys were even sent about the town to collect money—a trust they did not find ever abused in any way. If a child were brought up in a remote part of the country, the probability was that, when he got back to a town or city where the conditions of life were so different, there would be great danger of his running wild.

Mr. Henderson (Edinburgh) said he thought he would be wanting in his duty if he did not bear his emphatic testimony to what he believed to be a most valuable suggestion—that the age of admission to industrial schools should be extended from twelve to fourteen years. He was very much against children being sent to gaol at all. There was some little difficulty, however, in taking a child direct from the court to the industrial school, but he did not think it at all a difficult matter to furnish for such children a proper asylum until the necessary inquiries were made.

Mrs. Meredith (London) said a reformatory was a prison. It had all the effect of imprisonment, because the children were in custody, and so also were they in industrial schools. She thought, however, that too much of a bugbear had been made of this word prison. It is possible to have prisons in which a child may fairly be placed. She did not like the word prison herself, and if she could avoid it she would not use it. There was great importance in good Mrs. McLaren's words. They referred to the spirit in which children are dealt with, and not the place. In order to show the spirit of love to children, and to teach them the way to live well, give them Gospel instruction. The children must be first got hold of, and placed in some house where one can teach them. She should not mind if they called her school a *prison*; she believed it could be made a place of blessing. It was not what one called a place, but what it was really made. She did not believe that the fact of a boy having been in a reformatory was a stigma upon him. It implied that something had been done for his good, whereas his having been in a police court did not convey this impression. After the work of the reformatory was done, the word would not be mentioned again. Mrs. Meredith did not think it a fair inference, if the speech of the gentleman from Lancashire conveyed the impression, that no good was done by reformatories; and she hoped the meeting did not mean to stigmatise these institutions in this way. In regard to retaining supervision over children, they were bound to give an account of them for three years after discharge; and during these three years, and long after, her association of ladies kept up a correspondence with them. Rather too many letters came to the ladies from the girls, who kept their friends in view very anxiously. Any little experience of boys that she had, was that, in cases where situations had been obtained for them, they got on well. They got into 'homes

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for boys,' and, on the whole, were a great deal better off than those boys who had never been in such schools. Reformatories were very strictly looked after, and managers were usually most anxious to do all they could to help the boys on. The statistics of the inspector showed a failure of only about ten per cent. She was anxious that there should be a strong opinion expressed as to the expediency of commitment to reformatories for criminal offences, even when only known to be the first, especially in the case of girls. Some people thought the industrial school would answer the purpose for prevention of crime; but that was not her opinion. The two kinds of schools differed very much. The industrial school proper takes no cognisance of the child as a culprit; every child came there only to be taught to live a life of industry. The reformatory uses penal discipline, which is absolutely necessary. It is 'the stitch in time that saves nine.' The folly of letting what are called first offences pass unpunished cannot be too strongly insisted on. There should not be a system, at the same time, such as would be applicable to grown-up men as well as boys. Severe physical discipline, without confinement to prison or reformatory, administered in public would do much good. It would not injure them nor society so much as a long sentence of imprisonment. She did not believe in whipping boys in addition to their reformatory sentence, nor men as part of their prison punishment. Either imprison severely or whip, but not the two inflictions. In some countries, in order to compel lazy and refractory people to work, whipping was used, but it suggested to her mind that such misconduct should be treated with privation of food, and that their food should be dependent on their industry. In regard to the whipping of children she considered that there were difficulties in the way of its being done by the police. Some police constables would certainly not like to be selected for this duty, and would do it badly—*i.e.*, vindictively, perhaps. In these circumstances they should be allowed to escape that duty. The parent or guardian of the culprit, or a representative of such persons, would be the proper administrator of the discipline. It would be a painful office, and those whose neglect or incapability caused the trouble ought to share the burden with the executive, of which they should be temporarily an appointed agent.

The CHAIRMAN (Sir James Watson), in summing up the discussion, said he could not help congratulating the Section upon the very able observations that had fallen from many of the speakers. An amount of light, indeed, had been thrown on the subject which might be productive of great good to the community. The Section seemed all agreed upon the necessity of a public prosecutor being appointed for England; the propriety of striking the ten days' imprisonment out of the Reformatory Act; and the importance of extending the age at which children might be kept in industrial schools from twelve to fourteen years. It might be that the fact of reformatories not doing all the good that might be expected from them arose, to a certain extent, from the circumstance of those who were sent there having been first in gaol. From what had been mentioned by Mr. Henderson, he considered it would be a great advantage if the age of

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retention were extended, because when children left these institutions early they very often relapsed into their old ways. In regard to the great question of imprisonment, he doubted very much whether it was possible to lay down a hard and fast line as to what judges should do in regard thereto. There was a great deal in the contention that it was desirable to avoid imprisoning young children; but what was to be said of the case of a young person who had perhaps been sentenced two or three times if he or she could not be sent to prison, while a person over fourteen might be liable to penal servitude? It was impossible to fix hard and fast lines in cases of this kind. Besides this, he considered that every punishment should be proportioned to the offence, and if justice was to be done it was indispensable that certain powers should be left in the hands of the magistrates to proportion that punishment to the criminality of the offence. His experience was that for all first offences, such as petty thefts, mischievous conduct, &c., a night in the police cell, with careful admonition and warning, was generally sufficient to prevent its recurrence and to keep a child right for the rest of his life. It would be a very hard thing indeed to send a child to prison for stealing a turnip or flowers, or treading down grass, or perhaps breaking a window. In these cases a fine was all that was necessary. At the same time, to lay down an invariable rule of practice for magistrates would be undesirable. Whipping was another valuable mode of punishment. In some cases it was very proper, but in others it would be such a disgrace to a family that it should not be resorted to. All this, however, must be left in the hands of the magistrate. He was in favour of emigration, and a society in Glasgow, under the care of Mr. Quarier, for promoting the emigration of boys after a certain amount of training had done great good.

Mr. JOSEPH LUPTON (Leeds) then moved, and Mr. MARK WHITWELL (Bristol) seconded, the following Resolution, which was carried with one dissentient:—

That in the opinion of this Section it is desirable that so much of the Reformatory Act as makes it necessary that a juvenile offender should be committed to prison before being sent to a reformatory should be repealed, and that the Council be requested to take the matter into consideration, with a view to memorialising Her Majesty's Secretary of State for the Home Department accordingly.

MISCELLANEOUS.

The following paper on 'The Industrial School as Repressing and Preventing Crime,' was read by Sheriff Barclay, of Perth:—The first industrial school in Scotland was opened in Aberdeen in 1840, by my friend, Sheriff Watson, who has undoubtedly the credit of being the originator of what has now become a national institution. The next was in Perth in 1841. The system was extended, but it was some time before its benefits were fully acknowledged.

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In the General Prison at Perth, juvenile criminals came so numerously that it was found impossible to deal with them on the separate system. Their physical and mental health suffered, and association was necessary for the young. A juvenile ward was accordingly erected. In 1849 there were 81 boys under eighteen years thus confined. A drill-yard was attached. None were admitted to the General Prison under less than *nine* months' incarceration, to deserve which they must have been several times convicted. In 1859 the managers of the prison reported that the new prison department for male juvenile offenders contained separate dormitories, with suitable accommodation and airing-grounds, but that there had been a gradual decrease. At the close of 1855 the number amounted to 47, and at the end of 1859 to 16 only. It was therefore proposed to devote this accommodation to other purposes. This was soon afterwards carried into effect. The last annual report on prisons states that in *all* the prisons in Scotland during 1879 there were 14 juveniles of both sexes under twelve years of age, and 124 between twelve and sixteen. Though these numbers are favourable when contrasted with the figures anterior to the institution of industrial schools, yet it is mournful that there should have been in prison last year even 14 children under the age of twelve. Fortunately public attention has recently been directed to the subject of imprisonment of children, and it is to be hoped that some safe remedy may be found to prevent the school being thus superseded by the prison. The last Annual Report of the Inspector of Industrial Schools and Reformatories stated that the number of certified industrial schools in England on December 31, 1878, was 94, and in Scotland 33; or, in all, 127. The number of children in both countries in industrial schools at that date was 14,953. Of reformatories at the same date there were 54 in England, and 12 in Scotland; 66 in all, with 7,009 inmates. The Treasury allowance for industrial schools in 1878 was 153,469*l.*, and for reformatories 91,571*l.* The amount received from parents and parochial boards for juveniles in industrial schools was 17,116*l.*, and from parents for juveniles committed to reformatories 6,992*l.* The same Report shows that of 5,552 boys discharged from industrial schools during the previous three years, about 83 per cent. were 'doing well,' only 5 having been afterwards convicted; and, of 1,439 girls discharged during the same time, about 79 per cent. were doing well, and only one had been convicted of crime. Of 3,632 boys discharged from reformatories during the same three years, about 77 per cent. were 'doing well,' while 14 had been subsequently convicted;

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and of 851 girls discharged, 74 per cent. were doing well, six having been subsequently convicted. The difference will be remarked in the results between the juveniles discharged from industrial schools and from reformatories; in the former 83 and 79 per cent. are reported as doing well, whilst in the latter the number is reduced to 77 and 74 per cent. This may be accounted for from the different class of juveniles admitted to these institutions. The one takes in those with tendencies to crime, the other receives only where crime has fully developed itself. It ought also to be observed that besides those reported as 'doing well,' there is a considerable number reported as 'unknown,' some of whom may be entitled to rank as 'doing well;' and it is only those reported as being convicted that we are entitled to contrast with those reported as doing well. We also remark in the results of discharges from the two classes of institutions that the male preponderates over the female sex in favourable results. It has been remarked that the female sex are like the figs in prophetic vision—the good are very good and the bad very bad. These facts establish the beneficial effects of industrial schools and reformatories in the diminution of crime. The following points deserve attention. 1. The amount received from the public funds is very great, and is increasing, but this is compensated by the lesser demands for police, criminal procedure, and prisons. 2. It is objected (not without cause), that the tendency of the industrial school is to lessen parental obligation and guardianship. Where the parents are alive and able, the only check is strictly to enforce payment of board, and it is satisfactory to observe that much has been obtained in this way. Still many parents are unable to contribute. To imprison them serves no good purpose, and increases the public burdens. 3. It is feared that many juveniles are committed to industrial schools when poverty is the only qualification. In such instances, the Poor Law Boards ought (as in some cases they do) to contribute. It is preferable that juveniles should have industrial training in school instead of education in the work- or poor-house that will stamp them with the stigma of pauperism. 4. It is doubtful if a juvenile committed to a reformatory should first endure a brief imprisonment. Prison discipline for ten days can avail nothing, but is sufficient to stamp the character of 'felon,' and rob the prison of its terrors. 5. A juvenile under the age of sixteen convicted of an offence can only be committed to a reformatory, not to an industrial school. It is only when the youth has a tendency to crime and is without such guardianship as is likely to check the inclination that he is sent to an industrial school. There

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are many instances of a petty offence being committed by a youth of tender age, under such circumstances as render him better fitted for industrial training than undergoing preliminary imprisonment and then to be committed to a reformatory In such cases it might be safely left to the magistrate to prefer the industrial school to the reformatory, which, according to the present law, he is prevented from doing. Lastly, as an old man with upwards of fifty years' experience as a magistrate, and not a little with prisons and industrial schools, one thing increasingly attracts my attention, and that is, that all appliances for training youth, and especially those whose tendencies and nurture are to evil, are unavailing without religion. I am convinced that this regenerating influence, inculcated on the whole man, heart as well as head, can alone render him a good member of society.

A Paper on the 'Bristol Certified Day Industrial School' was read by Mr. MARK WHITWELL, Chairman of the Bristol School Board.[1] The author commenced by referring to the part the late Miss Mary Carpenter had taken in commencing a day industrial feeding school for children who, from their truant habits, and often from their ragged and uncleanly condition, could not be got into ordinary public elementary schools; and to her persistence year after year in urging successive Governments to give power to School Boards to establish and maintain similar schools, to which children could be sent by a local authority, be detained all day, have plain wholesome food provided, and spend the time in ordinary schoolwork and in industrial training, the parents being compelled to contribute towards the expenses.

He showed how ultimately she gained her point, and that the Education Act of 1876 gave nearly all she had asked for.

He stated that the Bristol School Board on the passing of the Act took over Miss Carpenter's school; that since it came into their hands 170 boys and 50 girls had been received, of whom 79 were on the books on the 30th of June last. He gave statistics of the educational condition of these children when admitted, and showed—

That 71 could neither read nor write,
That 59 knew their letters only,
That 72 could read and write very imperfectly,
And that only 18 could read and write fairly.

He stated that it was only after all efforts to induce the

[1] This Paper appears in full in the *Record of Christian Labour* for December 1880, published at 29 Charing Cross.

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children to attend other schools had failed that the magistrates were asked to commit them to this school; and in proof of the pressure that had been brought to bear on the parents, he named that—

One parent had been summoned twelve times,
Two parents had been summoned nine times,
Four parents had been summoned eight times,
Four parents had been summoned seven times,
Seven parents had been summoned six times,

and so on; and that a total of 422 summonses had been issued in respect to these 220 children.

He spoke of the wonderful change wrought on them by the teachers, and quoted from the last report of Her Majesty's Assistant Inspector as to the 'good behaviour and quiet obedience' of the scholars, of the good discipline attained, and of the little severity exercised, remarking that, with the exception of a little help from the shoemaker a few hours weekly to teach bootmending, and to superintend the bathing of the elder boys, the whole work is carried on by *women*. The school premises are open from 6 A.M. to 6 P.M., and the scholars have three meals daily there.

The cost to the ratepayers, after deducting parents' payments, sale of firewood, and the Government grant, is 3*s.* per head per week, reckoning on the number in average attendance; or, calculating on the basis of the numbers on the books, 1*s.* 9*d.* per head per week.

The truant habits of many of the scholars are overcome, but there is great difficulty in securing the regular attendance of some of them, and the managers are of opinion that in the worst cases nothing short of appointing an officer to bring them from their homes and haunts, *vi et armis*, and depositing them in the school, will succeed.

Mr. Whitwell considered that the school was doing a really good work for the lowest stratum of society, and recommended School Boards in other large towns to establish similar institutions.

On the Truant School of the London School Board. By Mrs. WESTLAKE, Member of the London School Board.

HAVING been asked to give some account of the truant school established by the London School Board, I may begin by observing that truancy is a form of juvenile delinquency for which neither reformatories nor the common kind

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of industrial schools provide. Reformatories are for children who have become actually criminal, and the common kind of industrial schools is for children who have at least fallen among vicious surroundings; and both contemplate a permanent separation of the child from its old haunts. Mere truancy may result from want of sufficient control in a respectable home, and, if dealt with early enough, may be cured by a temporary sojourn under strict authority.

The first recognition by Parliament that something had to be done for the class of cases in question is to be found in the Industrial Schools Act, 1866, by section 16 of which, 'where the parent or step-parent represents that he is unable to control a child, and that he desires that the child be sent to an industrial school,' a magistrate may send him there accordingly. This legislation, however, was defective in two respects. First, it left everything to the initiative of the parent or step-parent—a course which was inevitable at that time, when the parental discretion had not yet been interfered with except in the case of criminal or semi-criminal children. Secondly, sufficient provision was not made for the child's being allowed to return home from the industrial school when the discipline might be expected to have produced its effect.

The introduction of compulsory education by the Elementary Education Act, 1870, brought the first defect into prominent relief, for it went on the principle, too often justified by the fact, that the indifference of the parents themselves is often a main obstacle to the children's attending school. And as compulsion was seen in operation, other causes besides the indifference of their elders to the benefits of education were found to swell the number of non-attending children. Many parents and guardians are so weak and foolishly indulgent that the children are led to believe they can defy all authority. Others are widows or widowers, leaving their homes for their work before school hours, and therefore unable themselves to see to the children's attendance, and having no one to do so for them. Thus there continued to be numerous children wandering through the streets, and not merely losing the education intended for them, but falling into bad company, and ultimately swelling the numbers in reformatories or the common industrial schools; and the members of the School Board who personally worked the compulsory bye-laws in their respective districts continually had such children brought before them by respectable parents, who, with tears in their eyes, entreated that some timely means might be taken for their reform. To fine such parents for their children's non-attendance was in-

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effectual as a remedy for the non-attendance, besides that in many cases it punished an unoffending person, while the child, who deserved punishment, escaped.

At last a remedy was applied by the Elementary Education Act, 1876, section 12 of which allows a child to be sent to an industrial school if, in the first case of non-compliance with an attendance order, the parent satisfies the court that he has used all reasonable efforts to enforce compliance, and without that condition in any subsequent case of non-compliance. And section 14 of the same Act empowers the managers of industrial schools to license children so sent to live out of such schools after a month's detention in them, conditionally on the children so licensed attending certified efficient schools as day scholars. Thus the means were provided of establishing a special class of industrial schools as truant schools, the parents' initiative being no longer necessary to the children being sent, and a conditional liberty being allowed after a short application of the discipline, in order to test its lasting effect.

I may remark, in passing, that the same Act provided for day industrial schools; but these, whatever their other merits, were obviously unsuitable as remedies for truancy. Not only might the children play truant from a day industrial school as well as from an ordinary day school, but the evil of lax authority at home would not be corrected by discipline maintained only during certain hours, and alternating every morning and evening with a renewal of the evil to be contended against. Reformation can only result from discipline steadily pursued during a certain period.

The School Board for London, on Mr. Picton's motion, took steps for the establishment of a truant school, and after a good deal of correspondence with the Home Office, a large, old-fashioned house in Hackney, called Upton House, was certified on October 8, 1878, as an industrial school for Protestant boys, not exceeding sixty in number, the Home Office accompanying the certificate by a direction that the school was to be applied until further notice to the reception of cases sent under section 12 of the Elementary Education Act, 1876.

Owing to the short period of detention contemplated at the school, and the constant and strict supervision consequently required, a larger staff was appointed than is usual in an ordinary industrial school. It consists of a governor, with his wife, who acts as matron, a schoolmaster, two labour masters, and a cook. This staff would, however, be sufficient for 100 boys, were the house capable of accommodating that number. The only industrial occupations undertaken besides the house-

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work are wood-chopping and gardening in the piece of ground attached to the house, the time of detention being too short to allow of instruction in any trade. Three hours daily are given to school work, and efforts are made to interest the boys in their lessons, and to cause these to be as little irksome as possible, by making the schoolroom the most cheerful place in the house. The lessons are modelled on those of an ordinary Board school, but are usually of a very elementary character, the children, from their previous irregular attendance at school, being necessarily very backward. An hour and a-half is allowed for recreation, and the time not otherwise occupied is filled up with drill in the playground. The boys are taken on Sunday to the nearest church, and latterly have been allowed a walk once a week beyond the precincts of the school. The dietary table is that of an ordinary industrial school, with the exception, however, that less sugar is allowed. On admission to the school each child is provided with a plain working suit, his own clothes being meanwhile fumigated, and as far as possible mended, and put aside to be resumed on quitting the school, as no new outfit is then provided. The punishments inflicted are corporal punishment, not to exceed twelve strokes with a birch or cane, reduction in quantity of food, and deprivation of play. All punishments have to be entered in a book for the information of the Industrial Schools Committee of the Board, who act as managers.

When, in the opinion of the governor, a child is fit to be released, he is licensed out to his parents on condition that he regularly attend a certified efficient school, to be chosen by them. In the case of a Board school, whether it be full or not, the teacher is bound to admit the child. Postcards are furnished to the teachers, on which they write each week the attendance of the child, and forward them to the office of the School Board. The children often show great eagerness in applying for their attendance cards, and insuring their regular return by posting them personally. Every case of non-attendance is inquired into by the industrial schools officers of the Board, and the cause reported to the Industrial Schools Committee, and no case is passed over unless it is found to be excused by illness or other good reason. In the absence of due cause the parent is warned, and after a repeated offence the licence is revoked, and the child ordered back to the truant school. He receives six strokes of the birch on re-admittance, and is only licensed out afresh when there seems hope of permanent amendment. After nine months of regular attendance

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at school the child is discharged, and no case has occurred in which a discharged child has relapsed into truancy.

The first boy was admitted into the school on November 6, 1878, and the total number received between that date and June 30, 1880, was 213, with the results shown by the following table:—

Total number licensed out after an average absence from home of twelve weeks two days	187
Total number of cases in which the licence has been revoked	92
Transferred to other Schools	17
Licensed out for the second time	68
Second licence revoked	24
Licensed out for the third time	3
Discharged	43
Total number remaining in the School	54
Total number of the highest possible attendances in the cases of the boys sent out on licence	46,818
The number actually made	38,604
Percentage of attendance	82·45

The time of detention has been generally much less than twelve weeks, the average having been raised by the cases of several children who were unavoidably detained after their time of detention would naturally have expired. Thus, one boy remained in the school for a great length of time owing to the disappearance of his parents, and could not be released till their place of abode was discovered. The seventeen cases transferred to other industrial schools were of children who were not fit for the truant school. It is almost impossible in such a vast city as London to discover at once the antecedents of all the children, and unsuitable ones have sometimes been consigned to Upton House. These, as well as a few incorrigible truants, whom nothing but a long detention could affect, were transferred. There is every reason to believe that the percentage of possible attendances made by the boys licensed out will increase in future, as it has been improving during recent months. A loosening of discipline took place during a change of staff, necessitated by certain irregularities in the institution, and this led to greater laxity in the attendance of the children who were licensed out during that time. The percentage of attendance at Board schools throughout London was 80·8 at Midsummer last, and when it is considered that the children from Upton House, now making a better average than the ordinary children in the schools, were formerly those who could not be induced to attend at all, the result may be con-

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sidered eminently satisfactory. Not only are these children the most regular, but the testimony of the teachers is that they are among the most attentive and the best behaved. The testimony of the parents is equally strong, as shown in the letters and evidence collected by a member of the Board during an inquiry into the management of the school.

There is but one opinion among the superintendents of visitors, who are charged with the working of the compulsory bye-laws, as to the effect of the truant school both upon the boys licensed out and 'indirectly through them upon other boys inclined to be irregular.'

The superintendent for Lambeth East, quoting the opinion of his visitors, says: 'The boys licensed out are amongst the most sprightly, well-conducted, and punctual of scholars, and some instances were signalised where the change in appearance and conduct was spoken of as "surprising," "most gratifying." . . . I have spoken to some of the boys who have been consigned to this home and subsequently released, and to their parents and teachers. The universal testimony has been to the radical improvement effected in the conduct of these boys. One mother was especially fervent in her thanks to the Board for the great good done to her wilful boy by some weeks' residence at the institution, and the magistrates view with favour the disciplinary character of such a home, in the numerous cases brought before them where parents plead that the irregularity is entirely the fault of the children, and not their own.'

The superintendent for Marylebone says: 'The old-standing "truant" difficulty has been well met by the Upton House experiment, and now that the success of the scheme has been fairly established it is hoped that more accommodation of the kind will be forthcoming, the school being in great request. Parents who would shrink from the idea of sending their children to an industrial school for a term of years eagerly avail themselves of the chance of a few months' discipline for their refractory boys, and are willing to pay a fair share of the cost.'

The superintendent for Southwark points out the present difficulty arising from limited accommodation, when he says: 'Of forty cases "ordered" during the year but fourteen have been sent, and there has not been a single case where committee, superintendent, and visitor have not agreed as to its fitness for such a school.'

As a rule only young children below the age of twelve are consigned to Upton House. It is found that after that age a short detention is of little use, as the habit of truancy has

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become confirmed, and stronger measures are necessary. It has also been found useless to take children from very miserable homes, where there is little hope that after their release the parents will assist in securing their regular attendance at school.

The average cost of Upton House is 19*l.* 5*s.* per bed per annum. The Home Office contributes the following amount to the support of children sent there under section 12 of the Elementary Education Act, 1876: 2*s.* a week for each child whose case comes within section 11 (1) of the Act—which is where the original attendance order was grounded on the parents habitually, and without reasonable excuse, neglecting to provide elementary instruction for a child prohibited under the Act from being taken into full time employment; and 3*s.* 6*d.* a week for each child whose case comes within section 11 (2)—which is where the original attendance order was grounded, as in most of the cases sent to a truant school it would be grounded, on the child's being found habitually wandering or not under proper control.

As with other industrial schools, the Board has no power over the contributions of parents towards the maintenance of their children in Upton House. It can only recommend, upon the information of its industrial schools' officers, the sum which it considers the parent can afford, and the amount is then settled by the magistrate, subject to the approval of the Home Office. The object of the Board is in all cases to make the parent pay as large a share of the cost as his means allow, and it is to be regretted that the magistrates often reduce the amount suggested upon the plea of the parent alone, without due inquiry into its truth.

In 172 cases the amount ordered by the magistrates to be paid by parents, and actually paid by them, was as follows:—

	6*d.*	9*d.*	1*s.*	1*s.* 3*d.*	1*s.* 6*d.*	2*s.*	2*s.* 6*d.*	3*s.*	5*s.*	Total.
No. of Cases—	36	2	48	1	35	35	11	3	1	172

In the remaining forty-one cases either the Industrial Schools Committee found it useless to take proceedings against the parents for payment, or their summonses were dismissed or withdrawn.

It is obvious that a school for sixty truant children cannot meet the requirements of a great city like London, and, now that the experiment has been fairly tried and has succeeded, it can safely be repeated. The working of the Education Act, 1876, has almost become a dead letter in London, owing to the inability of the School Board to carry out the magistrates'

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orders. There are numerous cases of children ordered for committal to the truant school who, from want of accommodation, are allowed to defy the law for month after month, and owing to the present deadlock the superintendents have for some time past almost ceased to ask for such committals. Many children have in consequence fallen into more serious mischief, and have again been brought before the magistrates to be consigned for a term of years to ordinary industrial schools. A few industrial schools have, as an experiment, been induced to take truant cases for a short period, but the same system of management is not fitted for short and long detentions, and this resource has therefore failed. Under these circumstances the London School Board has considered the subject of further truant accommodation, and has decided, after warm opposition from a few of its members, to establish a second school to accommodate 100 children. Active steps are now being taken by members of the Board to find a building suitable for the purpose with the least amount of alteration.

But before coming to this decision it was agreed to ask the managers of all industrial schools within easy reach of London whether they could provide special accommodation for truant boys. In answer to this appeal, the Rev. Thomas Seddon, on behalf of the Roman Catholic authorities, offered to establish a school for ninety cases at Fulham, on condition that the School Board should make its usual industrial school grant of 10*l.* for every bed placed at its disposal. This proposal comes on for discussion at the Board this month, and it is sincerely to be hoped that it will be accepted, not only on the score of economy, but as the best means of providing for Roman Catholic truants, for whom there is at present no accommodation.

No truant school has been proposed for girls, and it is much in their favour that the want of such a school is not felt. No doubt their constant occupation at home in domestic work affords them fewer opportunities than boys for wandering the streets, but as a rule it will be found that they go more willingly to school than boys, and that their absence is more often due to their mothers than to themselves.

The object steadily kept in view in the management of the truant school is, without in any way impairing the health of the children, to make them feel that it is a place of punishment, and one to which they will not willingly be consigned afresh. To secure this end the committal should follow immediately upon the sentence, and the children made to feel that they cannot have their own way, and that if they can defy the authority of their parents there is an irresistible power which they must

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obey, whose arm is sufficiently long to reach the most insignificant of them. When once they are convinced of this fact, a lesson has been taught them which will never be forgotten Combine with this first lesson a system of constraint and constant occupation, and children accustomed to the free life ot the streets will find the special discipline so irksome that they will not willingly subject themselves to it again. And the child is made to feel that he alone is responsible for his fate. When once his regular attendance at school is secured, the law has done its part, the great stumbling-block is removed from the child's path, and it becomes the teacher's duty to see that his faculties are trained to the best development of which they are capable.

A paper on 'Penal Servitude,' of which the following is an abstract, was contributed by the Right Hon. Lord Norton, K.C.M.G.:—There are too many in prison—not that too many are punished, but that the punishment in use is ineffectual, and in many cases inapplicable. Penal servitude is a scheme of punishment of suspicious origin, and, in reason, self-condemnatory. It was adopted as a substitute for transportation, when that mode of *riddance*, rather than *punishment*, became impracticable. Transportation was bad enough as a penal model, for riddance is not correction. But penal servitude could be no substitute for it, bearing no resemblance to it excepting in its worst defect—the length of its duration —which, however, was its recommendation to those who sought only the disposal of troublesome subjects. The triple stages—of separate confinement, public works, and gradual liberation under surveillance of police—combine every possible defect in penal treatment—long duration, disconnection from the crime, criminal association, and finally artificial freedom. Of this home-transportation Colonel Sir Edmund Du Cane himself says, 'Hardly had it been founded before it broke down; yet the Commissioners to whom the failure was referred in 1863 could only think of curing the process by making it longer still. Their notion was that crime was a proof of a criminal nature, to reform which must require time, and that was the undertaking of punishment. This confusion of the ideas of education and correction lies at the bottom of all our national blunders in respect of both. A reformatory school, said Lord Aberdare in his address to this Association, is a kind of prison, and conversely we seek to make our prisons schools. The effect of the first mistake is to taint education, and of the second to

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neutralise punishment. Human laws cannot adjust punishment to moral guilt, but can only meet the apparent motive to any criminal act by a counter motive deterring from its probable repetition. There should be the best moral influence brought into the process of deterrence, but reformation travels out of the scope of specific punishment, and assumes the unpenal work of general education. The second stage in penal servitude is confessedly faulty in actually corrupting influences. Association in public works is justly condemned in a penal process, and all proposed better classification by way of avoiding its evils seems equally hopeless. Crimes of violence often spring from an impulse of the least degraded nature, and many crimes now are such as require an educated intelligence for their commission. Distress, most felt by those accustomed to better circumstances, has lately driven many to embezzlement of what was fully intended to be restored. By what possible test could convicts so variously caused be classified to avoid mutual contamination? Governors of prisons can perhaps be allowed a greater discretion as to total isolation of notorious villains or inveterate recalcitrants. If we would restrict imprisonment to a truly penal use—that is, a deterrence from crime—it might be greatly shortened in duration. This would also have the advantage, besides reduction of crime, of recovering, on an average, 20,000 able-bodied workmen to profitable work, instead of allowing them to further plunder us by their punishment. 'Imprisonment,' says most truly Sir Rupert Kettle, 'is made too common, so that by familiarity its terrors, and all external moral influence, are lost; just as all sense of degradation in pauperism was lost under the old poor law, and no disgrace got attached to bankruptcy by frequent "going through the Court." There is scarcely an act of misconduct, or a breach of social order, that is not directly or indirectly punishable by imprisonment. Debtors are still imprisoned for contempt of court, and every local authority or company can enforce bye-laws by the gaol.' The number of imprisonments might be diminished by more punishment by fines, now fines are made payable by instalments, and more easily leviable by sureties for payment (Summary Jurisdiction Act of 1879). Costs should be altogether separate, and defrayed as far as possible by the fine fund. Children should be almost wholly kept out of common gaols. Our colonies have anticipated us in effecting this. Of the five heads of crime in the recently introduced Draft Code, two at least might be better dealt with by corporal punishment. The perpetrators of brutal violence and of indecency,

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and criminals of morbid degradation and pruriency for notoriety, would, we know by experience, be more effectually turned from their vicious tendency by the only counter motive they are capable of—fear of pain. The indignity of the treatment is the best measure of its remedial fitness, and the stoppage of any crime's repetition is the test of its right penal treatment. Probably one-half of those now in prison, left to brood in solitude over their crime night and day, with only five minutes weekly of counter-influences in the schoolmaster's company, might have been turned out cured of crime by suitable punishment to support themselves by industry. Those who must be dealt with by imprisonment need not have imprisonment exceeding three years, if it were made more practically penal and deterrent; while the senseless imitation of transportation at home, called penal servitude, might altogether cease to waste our public money in retaining so many uncured patients of pathological experiments only to keep them out of sight. The Deputy-Governor of Millbank, in the evidence before the Commissioners (3,196), so avows for himself what is no doubt the too common idea: 'The only idea of punishment is to keep criminals out of the way.' Perpetual imprisonment might be reserved, in lieu of capital punishment, for cases requiring permanent incapacitation of inveterate mischief, but not necessitating death. The new Prison Directors seem unfortunately leaning towards longer sentences of penal servitude and shorter stages of penal imprisonment. The reckless sentences of some chairmen of quarter sessions to the blind and ready limbo of 'P. S.' tend increasingly towards the same mistake. It is remarkable that while doubt is expressed as to the possibility of safely imposing longer terms of imprisonment for the worst crimes, convicts of lesser crimes are imprisoned for terms three times as long as the prison stage of penal servitude. The sum of these considerations amounts to this. The State cannot educate adult criminals in prison. It should do all in its power by national education to avert from crime, and when crime occurs to deter from its recurrence. That habitual crime may to a great extent be prevented can only be despaired of by those who are ignorant of the great and cheap success of Discharged Prisoners' Aid Societies.

Sir WALTER ELLIOT, K.C.S.I., called attention to the 'Initiatory Proceedings in Criminal Cases under the Scottish System of Judicature.'

Under it the charge of one or more counties is vested in a non-resident sheriff, who is represented by a resident sheriff

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substitute and a procurator fiscal, who is the public prosecutor, appointed for life, the former (but not the latter) debarred from other employment, and the latter generally a solicitor in local practice. Besides these there are one or more assistant-sheriffs, without salaries, generally local practitioners for occasional emergencies. All are under the Lord Advocate, who is represented in the Crown office by four deputies, each supervising a certain number of counties.

All cases of violent death, whether by accident or otherwise, are investigated by the procurator fiscal, who conducts his inquiry in private. Should it result in a criminal charge, the proceeding is continued under two forms, termed—

(i.) The declaration (of the accused).

(ii.) The precognition (or recording of the evidence).

(i.) Under the first the accused is asked to give a voluntary explanation of the charge, which is recorded as evidence, not in his own words, but as dictated by the procurator fiscal. If he declines, this too is recorded.

(ii.) The witnesses are examined likewise in private and in the absence of the accused, and their evidence taken down, not in their own words, but by the dictation of the procurator fiscal, or sheriff substitute, as the only magistrate available. The latter, however, seldom attends.

(iii.) The record is then submitted to the Crown office, whence instructions are sent for the release of the accused: or for his trial in the sheriff court; or for committal to the assizes.

About four years ago, circumstances led the magistrates of Roxburghshire to inquire into this mode of procedure by a committee of their number. They collected information from several sources, mainly from the evidence taken by the Royal Commission appointed on November 19, 1868, and they reported—

(i.) That the opinions of those educated in the system pronounced it to be almost perfect—a safeguard to the innocent and only dangerous to the guilty.

(ii.) Others asserted that the declaration was not 'emitted' voluntarily but extracted by interrogation and the replies dictated, a practice 'not open to objection if he be a judicious prosecutor, but most dangerous if one-sided.'

(iii.) That a timid or nervous person was apt to get confused and contradict himself, especially when questioned again and again, on points that had come to the procurator fiscal's knowledge from the witnesses examined in his absence.

(iv.) That the interrogation was sometimes minute, searching, and indefinitely prolonged.

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(v.) That some procurators made the establishment of the charge a personal matter.

(vi.) That the declaration was often worthless as being 'emitted' by a class regardless of truth, who tell lies even when innocent.

With regard to the precognition it was held that it was unfair to the accused to record evidence against him in private, and in his absence, and in that of a legal adviser. That it was unfair to keep him in ignorance of the whole case until fourteen days before he is placed on his trial. That the combination of the functions of judge and prosecutor in cases tried in the sheriff court is anomalous. That keeping the evidence secret till the trial, or altogether if there is no trial, is unfair to the public. A published case was quoted (Report p. 11, note) in which a miscarriage of justice was the result.

The appointment of the committee arose out of the same cause:—The suspicion of a section of the public that the release of a man, charged with homicide in the execution of his duty, had been effected by private influence, found expression in Parliament. Orders were sent from the Home Office for his re-arrest and committal for trial. He was fully acquitted at the assizes, and it was seen that the publication of the evidence would have satisfied everyone.

The Royal Commissioners drew up a series of points in which improvement seemed desirable, but made no specific recommendation. Some of their number recorded energetic protests against certain practices.

The Roxburghshire Committee submitted the following recommendations:—

1st. That the inquiry into cases of homicide, death, serious accidents, etc., should be made in public, leaving it to the discretion of the magistrate to conduct it in private if expedient.

2nd. That evidence in cases involving liability to committal for trial should be taken in the presence of the accused, subject to a like discretion on the part of the magistrate.

3rd. That the accused should be entitled to obtain a copy of the record.

A Paper on 'The Practicability and Advisability of substituting Task Sentences for Time Sentences'[1] was contributed by Mr. ALFRED HILL, of Birmingham. This object is to a great extent already effected with regard to prisoners sentenced to penal servitude, who have the power of shortening their

[1] This Paper is published in full by the Author.

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periods of detention by earning marks for industry combined with good conduct. The main difficulty in the way of carrying into effect an analogous practice as regards persons sentenced to detention in ordinary prisons, has been that those establishments were in the hands of the local authorities, to whose officers it was difficult to entrust the requisite amount of power and discretion. The Prisons Act of 1878 has now removed this difficulty. At present prisoners have little motive to do more than tide over their terms, avoiding such acts as may entail punishment, and doing no more work than will just pass muster. Thus, their liberation comes to them without exertion on their part, and, consequently, is not prized as it would be had it been obtained by vigorous and sustained effort. A prisoner who has thus tided through his sentence considers that he has beaten the law; while one who (to use a Hibernian phrase) has found himself *compelled* to *voluntarily* work hard and co-operate with his gaolers, cannot but admit that the law has proved too strong for him, and is thus disposed not to come into conflict with it again.

It might be declared that a sentence of so many days should mean that the prisoner was to do the amount of work which might be done with average industry in that period, and that he should be consequently released so soon as he had done this work, and not till then, with, however, a maximum limit to his imprisonment. To meet the case of gross idlers, who might prefer to wait for the termination of the maximum period, a certain portion of the work (say what might be done with ordinary industry in eight hours) might be compulsory, so that the non-performance of it should entail prison punishment upon the offender. Under these circumstances there can be little doubt that the great majority of the prisoners would take to vigorously working out their freedom, which, thus obtained, they would prize and take care not to imperil again.

A Paper, contributed by Mr. Thomas Beggs, pleaded for the admission to prisons of the Lecturers of Temperance Associations. He alluded to a similar suggestion made at the Leeds Congress in 1871 by Sir Walter Crofton,[1] and thought much might be said in its favour. The author believed that in many cases such lectures would be highly advantageous. He was aware that great care would be required, for zealous men are not always wise; but the old-established temperance associations, whose co-operation could be secured, would be able to select judicious advocates, and

[1] See *Transactions*, 1871, p. 321.

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such lecturers should be under the direction of the chaplains of the prisons. The temperance societies have among their members numbers of men who have been given up as hopeless and irreclaimable drunkards, but who, through the adoption of the total abstinence principle, have become honourable and useful members of society. Some of them have been led to reflection by a stray visit to a member of a temperance society, some by reading a tract, some by the admonition of a dying relative or friend,—but the meetings for the advocacy of temperance have been rich in fruits. Let us look for a moment at the classes who go to our prisons. What a bitter life a life of sin is! How little of kindness has ever been shown them! How few opportunities have been afforded them! Let us look again at what intemperance has done in dragging down men of culture and position to a low and degraded state. When looking at the condition of the children of misfortune and sin, let us make an effort to show them the evil of drink—to teach them that by surrendering it they may be restored to an honest and respected course. Let them in their prison hear a voice of solemn warning against that evil, strong drink, which, more than all others, is the enemy of health, usefulness, and happiness. In conclusion he stated that the National Temperance League would cheerfully co-operate in any measures that might be adopted to bring the teaching of temperance before the inmates of prisons.

The Rev. W. GRAHAM, Edinburgh, read a Paper on 'Capital Punishments.' The proper treatment of criminals, he said, is one of the questions of the day. Social reformers have been gradually preparing the way for a more humane treatment, in which the reformation of the criminal will be its prominent feature, instead of punishment for the deterring of others from like crimes. The criminal code of Britain is vastly milder than it was forty or fifty years ago. This always occurs in nations as they become more enlightened. The *lex talionis* is a characteristic of a semi-barbarous age. An eye for an eye—a tooth for a tooth—which law is abolished by the New Testament; for, speaking generally, the Mosaic criminal code is abolished for Christian nations. The Divine dealings are remedial as well as punitive. Why, then, should not human laws be the same? Some say, Yes, so far as regards all criminals except murderers; generally adding, that 'Whoso sheddeth man's blood, by man shall his blood be shed,' which, *they say*, is Scriptural authority for a capital sentence. Many, however, hold that this text, properly understood by Hebrew scholars,

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does not justify the capital sentence. The late Dr. Liddell, of Lochmaben—once principal of a college in Canada—held that the text, properly analysed, gives no direct authority for capital punishments. Dr. Young, of Edinburgh, one of the best Hebrew scholars living, takes the same view. 'It has been' (he says) 'the almost universal practice of all nations and tribes in every age, so far as we are aware, to put to death those whom they have regarded as murderers. The efficacy of this mode of repressing crime, however, has often been questioned, and there is a growing conviction that some other means of punishment must be discovered more likely to accomplish the desired result. The only thing, indeed, that at all keeps death punishments from sharing the fate of the old law of retaliation, of which it is the last relic, is the supposed Scripture command in Genesis—"Whoso sheddeth man's blood, by man shall his blood be shed." Their advocates forget that the Scripture abounds with language of a similar nature, which convincingly proves that the passage is not to be understood as a COMMAND *of what ought to be done by man*, but as the *announcement* of a general proposition of what is or may naturally be expected in the nature of things to happen, like the saying of the Lord Jesus, in Matthew xxvi. 52—"All they that take the sword, shall perish with the sword," *i.e.*, all who resort to violent measures may naturally expect to be subject to the same. On the Scriptural and common-sense mode of interpretation, the meaning of Genesis ix. 6 is that he "who sheds the blood of his fellow-men" is likely to have the tables turned upon himself, and to reap as he sows. But that the passage should be supposed to lay an obligation upon others to shed the blood of the offender, is what cannot be defended with the least show of reason, and indeed leads to the grossest absurdities.'

Looking, therefore, to the facts of Cain's life being spared, and of 'cities of refuge' for the man-slayer in the Old Testament dispensation, we think it doubtful whether Genesis ix. 6 gives a clear command to the civil magistrate to take away life.

But if the Scripture argument, even in the Old Testament, apart from the mild genius of the New, be doubtful, the question of the *expediency* of capital punishments is still more doubtful. In May 1861, on Mr. Ewart's motion in the House of Commons, in which he moved for a 'Select Committee to inquire into the expediency of maintaining the punishment of death,' a Royal Commission was issued. The *Times* of that date said —'How far the English prejudice connecting murder and the

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scaffold is founded on nature, on old tradition, or on Scripture, we know not. But within a very brief period, horse-stealing, sheep-stealing, forgery, arson, coining, rick-burning, shop-lifting, and many other crimes have been punished with death. We need not, therefore, think so much of the prejudice. Is the punishment of death too severe, in the common estimate, for those cases of murder in which the provocation is very great, or the premeditation very little, or the malice not deep, or may be not at all? We must conclude that it is—if juries will not convict—the additional horror of a female execution often leads to the acquittal of professional poisoners of that sex. The great difficulty is to find a secondary punishment on this point. The common feeling is faithfully represented in the condemnation of the first murderer, who was not capitally punished, but banished from society and a mark put upon him, as much for safety as for stigma. We hope the British public are prepared to suffer some inconvenience, not a little risk, and a considerable expense, in providing a new place of confinement for the murderer that shall requite his crime, stamp it with execration, give some opportunity for amendment, and not threaten our security.' With these weighty sentences we agree, believing that some solitary prison, on some lone island of the sea, for the murderer would, in most cases, be really a more deterrent punishment than the scaffold. In such cases prevention is better than cure, and the scaffold must ultimately fall in the presence of a universal and religious education.

> 'Better build schoolrooms for the boy,
> Than cells and gibbets for the man.'

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EDUCATION.

DANGERS OF OVERWORK.[1]

What may be the Dangers of Educational Overwork for both Sexes, with special Reference to the Higher Class of Girls' Schools, and the effects of Competitive Examinations? By ALEXANDER KEILLER, M.D., F.R.S.E., ex-President of the Royal College of Physicians, Edinburgh.

AFTER stating that the paper had been written at the urgent request of the local Secretaries, and alluding to the difficulty he had found in bringing the results of his long experience on the subject within the brief compass of a paper, the Author proceeded as follows:—

It would be absurd to say that mental labour is in any sense necessarily dangerous if not taken in excess, or unduly pressed on those who are unequal to the task of severe study. Brain exercise, if within due bounds, is salutary, if not essential to mental well-being; and to urge that the young brain ought not to be exercised through the timely influence of well and carefully directed education, is certainly far from the object I have in view on the present occasion.

'What may be the Danger?' is my 'text;' not, How the Dangers are to be met or Overcome. That the latter must, however, to a considerable extent, flow from, and ought to follow the proved course of the former, will be our 'practical application.' If the source and nature of the danger remain unrevealed, the appropriate remedy must, as in the medical art, remain uncertain, rendering, as in medicine, a correct prognosis and a scientifically correct treatment by no means free from doubt.

To fully discuss the influence of over-education on health would be to enter into the relations existing between the

[1] See *Sessional Proceedings*, 1879-80, vol. xiii., Nos. 3 and 4.

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organic and animal functions, so as to find and to poin out, not only how far and in what manner the Brain and Nerve Centres may be injuriously affected by undue exercise or over-stimulation, but also in what degree the various functions and organs are mutually and severally disturbed by indirect or reflex influence.

It may be truly enough affirmed, that in the study and observance of this relationship of organs and functions a great part of the duty of the medical profession consists. Doctors, or rather I ought to say patients, too often act or seek to act as if every organ of the body performed independently its more specially intended function, and therefore demanded special looking after; but the fact is, that no important organ can be long or greatly out of sorts without functionally at least implicating others; and this fact cannot with propriety or safety be ignored even by so-called specialists, on whose judgment and treatment much confidence is naturally enough felt. The practice of specialism—*i.e.*, of doctors directing their study and practical attention to special diseases—is unquestionably advantageous, and to find fault with such a useful and required state of matters I, of course, have not the slightest intention; but as I have a purpose to serve in now referring to this matter, I must not hesitate in speaking freely even of my own cloth, and no professional brother at all worthy of any position will find fault with me even if I go the length of saying that any so-called specialist, be he a brain doctor, or a heart doctor, or a lung doctor, or a liver doctor, or a stomach doctor, or any other individual kind of doctor; any one indeed who denies or forgets the practical importance attachable to the relations I have referred to, has good reason to ask forgiveness for his inexcusable pretensions.

The education of children ought, as a matter of course and of common sense, to be in keeping, as far as possible, with their mental and bodily powers; but, strange to say, weak-minded parents, who cannot fairly lay claim to having done much for their offspring beyond that of proving themselves the physical cause of their bodily existence, are often led away with the absurd notion that money can and ought to make up for all original or congenital deficiencies; that education can be purchased; and that their children, whose weak minds and degenerated bodies are quite unequal to the high measure of tuition so ungrudgingly paid for, can be made totally unlike themselves, healthy and strong in body and mind. Never was there a greater mistake than that of ignoring the necessity of substantially founded physical and mental health; and no error

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is more common than the non-observance and undue calculation of originally stamped peculiarities and tendencies which possess and almost invariably exhibit a power for good or evil, worthy of study and attention.

Young folks, like their seniors, usually manifest certain individualities of mind and character which ought not to be overlooked in their early training and educational upbringing. This disparity of inbred organism, mental and bodily, this natural dissimilarity, although known to and admitted by those who have devoted reasonable attention to its observation, is in a great measure ignored in schools, where indeed it cannot well be otherwise than unheeded, seeing that it would be a difficult, if not an impossible task, to arrange or adopt any one combined system equally fitted for all, however unlike in orginal power of imbibing or acquiring knowledge. It may perhaps be truly said, that to provide for individual peculiarities is not to be looked for, that children are enough alike, and that therefore in the usual provision made for teaching in ordinary schools, there is similar and sufficient food for all comers. This may be so far true; but if there be truth in what I have stated, it cannot be affirmed that the plan of managing large classes usually had recourse to is by any means free from question. The whole question here involved is that of the measurement and treatment of inherent capability, and of the capacity to meet and overcome educational difficulties, be they on the side of the taught or of the teacher.

There are great differences in the development of educatable power in children: some very slow, others very quick: some do not begin early to give evidence of being mentally capable of receiving or profiting by even the commonest instruction in public schools, and yet, after a time, when their perceptive faculties are unfolded, however late comparatively that may be, a sound and lasting education can be acquired,—the more sound and the more lasting, because of the mental faculties having naturally resisted the influence of forces which, when prematurely applied, so often lead to the very reverse of what is desired. If no other ultimate good be effected, in such cases the brain escapes injury, too often incident to more finely spun and keenly sprung natures. It is not in nature to be otherwise; and it is wrong in practice and principle to treat all brains or intelligences alike; for, as in bringing out the peculiarities of plants to their greatest perfection special care is necessary, so it is in regard to the proper outbringing of the mental and bodily faculties. Hothouse forcing often effects the most rapid and extraordinary growth; but it is well known

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that undue haste in rearing, like undue haste in educating, seldom leads to lasting results, and that due time and considerate management are required. Some will not be forced, and others will not stand the effects of forcing: educational, like plant training, must be wholesome in order to yield their fruit in due season. Intelligences vary so much in degree and in kind, that they can scarcely be expected to thrive under the same nurture, or to flourish under the same culture; and indeed of this more than abundant proof is seen in the erroneous and even dangerous school system of which I have spoken, but as to which teachers and pupils fail to act sufficiently upon, and as a consequence fail to discharge, duty and privilege of the greatest possible moment. The too common system attempted to be carried out in schools, both public and private, is radically defective, inasmuch as it seeks to treat all minds alike, virtually ignoring the fact generally acknowledged out of school by all classes, that there exists a diversity of educatable calibre in children at the same age, or, if in different years, in the same class. It may be no easy matter to put the education of our children under anything approaching to a strictly correct system of intellectual accordance—to carry out this ideal and much to be desired plan of doing the best for, and making the most of, their mental inheritance such as it may have been, and their capable acquirements such they are,—yet the effort, or at least some effort, ought surely to be made to rescue from the obvious trammels of their dull situation those who if otherwise placed, and differently classed and treated, might, and doubtless would, be induced to think and act better for their present comfort and future success, both of which I hesitate not to say are even now too often shamefully unheeded, to the ultimate disappointment and sorrow of many.

There is what may be called a healthy school stupidity, which is too often looked upon as altogether irremediable, but which through time and ordinary good guidance passes off so entirely as not infrequently to astonish those whose early calculations turn out to be unexpectedly wrong, the healthy, although it may be excessively dull in the uptake, by slow and sure degrees ultimately taking a position in advance of those whose 'thoughts of days and deeds now long gone by,' become greatly changed in favour of even their more notable dull-headed schoolmates, whose brain development and work were comparatively backward, and comparatively, because necessarily, incapable of anything like the ordinary, and far less the extraordinary, exhibition of cerebral precocity. The natural lessons thus occasionally given us, apparently fail to impress teachers

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with their significance, and the very want of observation in regard to this most important point in the education of youth strikes deeply into the marrow of the safe and successful mental culture of our children.

My seeing so much of the wrongs inflicted on those struggling to be educated makes me thus speak in, I trust, sufficiently sober earnestness; and being an M.D., and not an LL.D. or D.D., I may perhaps be excused if I now say that stuffing children's stomachs with more food than they can possibly digest is not half so injurious as cramming their brains with more educational pabulum than they can possibly assimilate; and for this reason, that in overloading the stomach nature often rebels, and speedily gets quit of the undue and greedy, or otherwise forced repletion; but not so with the over-repleted and over-fretted brain, unless perhaps, through dangerous convulsion, 'fits and starts,' or other, it may be, less sudden, but not less painfully grave evidence of induced derangement. While thus, however, comparing and pitting brain-wrongs with those of the stomach, it may be as well here to guard against being misunderstood, as if I entertained the opinion that the greatest repleting liberties may be taken with the latter, and that with comparative impunity. The usually good-natured endurance of the stomach is astonishingly commendable, its proved providential forbearance really wonderful, and too often taken advantage of and sadly abused; but seeing that its sympathies are so extensive and so strong, and especially with the brain and nervous system, too great care cannot be taken in remembering this even from an educational point of view. That most folks eat by far too much is a brain-proven fact, and that children are over-fed, and thus are often indigestibly and educationally unnourished, cannot be doubted.

Brain fatigue, or over-mental work, and digestive derangement, are often alike productive not only of serious nervous mischief, but of pernicious blood deterioration, and consequent mal-nutrition and exhaustion of brain and nerve tissue, on the due nutritive activity of which the interchangeable sanitary condition of so many vitally important organs depend.

Let any one even with a moderate share of observing power go into any school where high-pressure education is carried on, and 'cases' may be even 'facially diagnosed' and selected for treatment, which if unattended to (at this stage, not of cure, but of prevention), mischief may ere long be the result. Such cases are more readily detected towards the after part of the day, and especially towards the after part of the session, when

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the worn-out physical and mental powers more manifestly express the too long continued organic and functional waste. Towards the end of June last I was urgently requested by their parents to visit at their school two young ladies about fourteen years of age, who had been for some time suffering from sleeplessness and loss of appetite. I did so, and had no difficulty in making out two real cases in point, cases of young heads and the reverse of robust bodies, requiring little medical knowledge but that of common sense and experience to treat, viz.:—Stop the obvious cause of the symptoms, and the symptoms will obviously cease; or, in other words, give up striving beyond the natural strength to gain prizes which are utterly valueless when compared with the priceless prize of bodily and mental health. My simple and altogether non-medical (that is at least non-physical) prescription was quite approved of by the talented teacher of the school now referred to, and with whom I then had what, to me, was an interesting conversation on the subject of lessons in and out of school, and especially on the importance of noticing, and timeously preventing the influences of undue educational brain-toil in the young, and was struck by his marked experience, which he freely communicated to me, and which corroborated the opinions and views I had long entertained and expressed as to the danger of too long continued school periods, the evidence of its mischief usually exhibiting itself before the July month of the session, which should be the first holiday month to afford the obviously required rest. It is generally at this period of the scholastic yearly course that the young people begin to break down, and to exhibit the beginnings of what may, if unheeded, prove to be the no far distant end—the exhausted look, the fading cheek, the cast-off springiness of healthy gait, the diminished appetite, the unrefreshing sleep, and other indications of overwork at this time, when lessons ought to be for a time ended, and not more than ever spurred on in anticipation of, and in preparation for the finishing prize-race which finishes so many of our cleverest children, whose early promising leaves become prematurely seared and yellow by undue exposure to influences which nip budding flowers and destroy tender fruit. It so happened that, in the evening of the same day now referred to, I met another well-known teacher, whose very large experience on education led to his being selected to fill one of the best educational appointments going; and I could not help asking him the question which I have just mentioned and so far answered, viz.: Are you not unusually busy at this time of the year? and is it not proving too much of a good thing to

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work on so very hard, as I suspect you and your staff are now doing?

My excellent friend's answer proved to be what I was fishing for, as it quite unintentionally on his part let the 'cat out,' and told the truthful, though sad tale, that the spurs of the session had been booted, and already applied to the competition sides, to secure speed worthy of the desired admiration. The answer I got to my inquisitive question was in these unequivocal words—'Unusually busy. We are all at it now, working at killing pace; the examinations and prize competitions are right ahead, and there is now no rest for us until all is over.' An answer full of meaning, and capable of more than one construction.

I have frequently heard the confessions of teachers on this point, and have often been pressed, when conversing with them on the subject, to aid them in teaching the parents of their pupils the duty due to their offspring and to themselves in regard to the question of education. On the other hand, it oftener happens that the parental eye has been the first to notice the effects of the teacher's undue pressure, and to beg a remedy for the overworked brain of children. There are, doubtless, faults on both sides, which can be traced in a great measure to the existing scholastic systems, and the conditions which these imply, and, as it were, force on the attention and the observation of parents.

Many a time I have been charged, especially by sensible mothers, who dreaded the dangers now referred to, with the crime of aiding those who do not usually suggest a remedy for this great evil of continued mental strain and cram, and the too applicable and too truthful charge has often thus been pointedly and categorically made—'Why don't you doctors put a stop to it, you who daily witness the effects of the injurious system of forcing young brains beyond their powers? why don't you speak out, so as to let your voices be heard on this vitally important question? The weight of a great responsibility lies with the medical profession.'

Those to whom I have often spoken on the subject have frequently accused me of talking violently against it, and not publishing my opinions on this subject; and I must say that, out of the numerous cases which have come under my observation, I have often felt guilty of a neglect of duty in not carrying out the intentions I have so frequently entertained with regard to this matter. This occasion, however, can only be partially taken advantage of, because of the limited time given me to prepare a communication worthy of the many

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important matters involved in the general question of education. To these, however, I may have on a future occasion a fuller opportunity of directing more special attention.

It is unquestionably one of the greatest follies to believe that the more hours children study at school the faster they learn. To my mind this has very much to do with the present inquiry; and were it not for the monstrously absurd abuse of time, and with it waste of brains from over-schooling, which does not necessarily imply either over-teaching or over-learning: were it not for the long-continued educational pressure thus inflicted, together with what follows after the too long and weary school hours are over, the vexed question of education, from a sanitary point of view, would lose very much of the vexations connected with it. It is indeed a great mistake to suppose that the length of time spent in school or at lessons forms anything like a correct criterion of the extent of knowledge imbibed. The reverse of this is often more true; for in education, as in other matters, the mind is often weakened instead of strengthened by dwelling too long over work which may and ought to be done when and while the intellectual faculties are comparatively clear, and not left for the brain to struggle with and to dwell upon after its capabilities have become dull and unappreciative.

The great point to strive after is that of the best means of securing as efficient, and at the same time as sanitarily conducted an education as possible, that children get educational food fitted for their receptive and assimilative powers, that their bodily health should not suffer by the insanitary condition of their school, and that the modes of imparting instruction should not be injurious either to their mental or physical state. 'Feeding schools' have been spoken of for the body's welfare,—not a foolish, though at first sight a vulgar idea, for many a half-starved studious creature would be much the better of more of the creature comforts to aid the digestion of their mental food when unduly administered, and not a few would be none the worse of a nervine tonic suitable for the brain-work they find difficult to overtake.

If a fully grown man be well-nigh used up by the fatigues of an ordinary day's work, if even his physical and mental energies are ready for repose, especially by the time a good 'dinner and trimmings' fall to be digested, what, let me ask, will be the likely condition of a comparative child, who, badly fed and ill prepared with its hard and, to begin with, necessarily out-of-door work at nine o'clock in the hungriest and angriest winter morning—what will be the state of such a weak,

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undeveloped, fragile-framed, exhausted, worn-out-minded youngster, after getting home, not to rest, not to eat and fall asleep, but to again begin hard work, the very oppressive work of preparation for the morrow? If children, instead of being sent home from school in a state of mental, if not bodily exhaustion, if such over-schooled youngsters had only to feed and keep quiet enough to allow 'paterfamilias' to enjoy his after-dinner 'siesta,' and then with him to enter heart and soul into the evening's proper duties, lightsome entertainment, and mutually joyous recreation, all would be right, and greatly tend to ensure domestic health and happiness; but the fact is usually far otherwise, for instead of the study of the affections, and their best, because natural outpourings, instead of the social science of the hearth and heart, the business of the school must be attended to, cost what it may to family peace or comfort; the lessons to be heard in school to-morrow must be learned at home to-night, and that peremptorily, 'by hook or by crook,' which often stirs up the most unwholesome bile, and greatly disturbs the proper measure of salutary domesticity which every well-regulated fireside is entitled to enjoy. It cannot be doubted that this forced drill of children at their homes sadly interferes with the pleasures which are naturally derivable from home and fireside associations, and which, if not so interrupted and interfered with, are well fitted to strengthen not only the bands of family affection, but the ties of social kindness. Such go far to nurture a loving and tender spirit, not only towards every worthy object, but to deal gently with those even of a different stamp. Kindness is unquestionably catching, and its home exercise and encouragement most fitting, especially after the battle of a weary day has been won or lost, as the case may be: if won, the greater reason for united thankful joy; if lost, the less the occasion for any extinguisher of the fireside glow. By the present system of continual nightly home drill, little or no time is left for the cultivation and exercise of the social virtues which play so important a part in after years, when individual acquirements are tested and appreciated according to their social as well as their intellectual value. This is not sufficiently considered during the early years of mental development, when the seeds of moral worth ought to be carefully sown, so as to give the promise of a wholesome yield when the resulting fruit comes in due season to be gathered and appropriated.

If it were only more generally known than it is, that more real and more lasting educational work may be oftener and better done by two or three hours' than by six, eight, or ten

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hours' application, the health and the happiness, and the general welfare of the rising generation would be safer than by the far too prevalent system of prolonged and prejudicial grinding of so-called mental training.

I most firmly believe that if the hour of *nine* were changed to *ten*, many lives would be annually saved, and a greatly increased measure of health would not only result, but education would be thereby very materially progressed. Statistical data are said to afford the most satisfactory evidence of matters where numerical results can be with any degree of certainty ascertained. I have often thought that a house-to-house visitation for information in regard to this matter would prove the force of the opinion I have been led to entertain on this too much overlooked question.

In saying all this regarding 'home,' and its natural and highest and best relations, I feel and know the difficulty of its practical application: that it is all very well and easy enough to preach about it, but sermons as to duty, however, fail of convincing argument, and fine precepts are too often found not so easy to follow up into anything like a satisfactory adoption. Were I a practical teacher of youth (which I really am, although, thank goodness, not of school children, but only of those who must be taught to look after them when they get ill from over-education or otherwise), were I a schoolmaster, and heard any one preaching the *homely* doctrines broached on this occasion, I probably would not hesitate to take occasion to enter a protest, if not against the 'text' or argument, certainly against their application. I fancy, even from the special point of view I have been looking from, that I can see a cloud directly overhead, pouring down disapproving showers, and washing out almost every word I have been tempted to ask my hearers to believe. Were I a school teacher of a monstrous class, I would at once and boldly denounce the idea and injustice of interfering with home preparations and home-task work; and for this, if for no other reason, that no teacher could expect his best energies to outlive even a single session, were they to be so severely taxed as the killing doctrine of homeless preparation of lessons inculcates. Were my position and spectacles thus changed, I would doubtless thus think and probably act; but, as I now stand, I must from principle be consistent, and 'stick to my text,' and leave the matter to the just and conscientious consideration of teachers. I know that the doctrines therein contained will prove acceptable to the firesides of many a home.

The question of 'competitive examinations' is perhaps the

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most serious of all, for here we encounter high pressure put on beyond the point of anything like safe endurance. In speaking of it with the view of condemning a system so ingrained with mischief, especially to young and growing girls, my desire is to keep within the pale of prudent thought and speech; but there is here a duty which we are specially bound to discharge towards the present and ultimate welfare of those in whose sanitary upbringing and healthy outcoming so much individual comfort and happiness depend.

The force of all education ought to be directed towards individual improvement, with the view of the extension of that improvement to others during the ever-changing lotteries of life, and the wheels of fortune which so often lead to unlooked-for and unprepared-for changes, disturbing calculations and disappointing hopes. This passing remark applies to the schools and the schooling of both sexes, but may be here used 'with special reference to the higher class of girls' schools,' which is made to form so prominent a part in the question now before us, that 'special reference' may here be made to the educational upbringing, and consequent social outcoming of the fairer and gentler sex.

I have already spoken of, with the view of settling the general question as to the necessity for, or rather I should say, the educational safety of and attention to, the general health; and now what shall I say regarding the more special question put to us regarding the probable dangers of school overwork to girls? In dealing with this part of my subject I find it difficult to suppress the full expression of my convictions, especially as I am here for the purpose of endeavouring, as far as one can, to promote the triumph of truth over error on points of which the members of the medical profession ought to be the best judges, and without whose special observation and considerate opinion it would be difficult to settle. Although the question be very specially put, my answer to it will be very general, and yet sufficiently pointed. I venture to say that the present system of educating young females is utterly imprudent and wrong, not so much on the part of teachers, but to the parents and others who ought to know better. I know that I speak strongly, but do so by no means unadvisedly, for I have long been impressed by the wide-spread dangers of a system so totally and so cruelly unphysiological as that of demanding so much continued strain from those on whose after-school years the important question of health so very materially rests. It is indeed strange to find us here, so late in the day of boasted advanced thought, only beginning to

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open our eyes, so as to try and find out if we can possibly see anything wrong in this educational matter; but better late than never, if the light of heaven shines at last upon our good intentions, which it doubtless will.

The education of 'our girls,' like that of 'our boys,' especially in the matter of *competitive examination*, cannot be looked upon as at all satisfactory, and the observations regarding the undue forcing of brain work are alike applicable to both sexes. There is, in the great encouragement now given in the way of prizes and bursaries, much to question; and when we consider the fact before alluded to, that those who are by no means physically strong are generally those who are the most successful competitors, there is the greater reason for caution being exercised in this over-straining the, it may be, naturally quick, but too often comparatively unlasting powers.

It may truly enough be said that the female mind is sometimes found to be even more than a match for that of the male; and in the matter of education it has often been observed that the aptitude of girls in the learning of lessons is greater than that of boys, not only in the so-called superficial or ornamental, but even in the deeper and more solid branches of study.

The explanation of this is not far to seek, for in the so-called 'weaker vessel' there is not only the strength of ready perception, but the keenness to excel and the determination to shine—qualifications and resolutions which the rougher sex takes more time to think about, seeing that they fancy they need not hurry. The singular and successful facility in this respect is well observed from session to session at the examinations in girls' schools, where prizes and bursaries of value are too keenly competed for. I must not, and cannot at present enter fully on the very important subject of the education of females, as to which I am entitled to say that I ought to know a good deal, and especially of the dangerous results of their being exposed to influences beyond their comparatively tender physical and mental powers to resist. Young females, and especially those naturally delicate, assuredly ought not to be crammed and trotted out, as they often are on examination days, to compete for prizes at high pressure beyond the point of their safe endurance; and much more attention ought to be paid to their physical health than is generally done during their school attendance: and if I might venture to say more at present on this point, it would be to this effect, that females' education should be greatly left under the direction of those whose experience and knowledge of the educational and social

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requirements of the sex are admitted to be extensive and sound.

There are now, very properly, lady members on our so-called School Boards; it would prove a greater blessing than most people imagine, if this idea was carried or branched out in other and higher directions, and that Boards were appointed to regulate and watch over, not merely common schools for common people's children, but also educational institutions for uncommon people's children, who deserve, and may require to be looked after, even though they are altogether independent of Government or other grant. This may sound like undue interference with private judgment and individual rights; but seeing that sanitary matters are so often insanely judged and unrighteously dealt with when left to individual enterprise, it is, I submit, not asking too much to demand that opportunity be afforded to ascertain, and, if need be, to correct any shortcomings calculated to unnecessarily endanger the health of school children, be they of high or of low degree. From 'woman's view' invaluable aid may naturally be got and founded on, especially in regard to the physical, moral, and domestic training of young females, whose welfare so much depends upon the care and special wisdom exercised in their earlier years of educational life. There is much, very much, to find fault with in regard to the physical training of girls, even in otherwise well-conducted seminaries; but as plain facts are better than overstrained assertion, especially in matters of this kind, let me just appeal to what may be often daily observed. Take, for example, many a young ladies' school, and think of what usually takes place from the beginning to the end of a long session. The object of female education and upbringing is not, or ought not to be, that of the manufacture of 'blue-stockings,' nor the perversion of woman's naturally intended powers, to which unduly forced education often proves injurious. There is by far too much of lessons all day, little exercise, and no play in girls' schools, in many of which the work of a genteel education begins at eight o'clock, and goes on almost uninterruptedly until five at least, when a short walk or stiff parade, in which the muscular system, especially of the neck, and above all the muscles of expression regulating the features, must be called into play as little as possible. Why object to a forenoon trot or a midday canter to keep life's blood in motion, and send its red-coloured health-giving particles dancing along the cold extremities, and into the pallid cheek, even should the greatly dreaded vulgar aspect of ruddy health temporarily mar its much-prized gentility? This playing with health, as if the muscular powers were given for a different

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purpose than that of being duly exercised for the benefit of the whole system, is, to say the least of it, playing a game the reverse of sane or safe.

The question given me to answer is not What are the Advantages or Disadvantages, but What are the Dangers connected with Education in our schools? and of this I may already have said more than enough. The text I have been hitherto endeavouring to treat might have been followed up in a more regular form, but the short time allowed me to prepare it has not enabled me to work out the subject so thoroughly as I would otherwise have done. My principal aim, however, has been, in speaking of the dangers which the question refers to, to show, what medical observation and fact can abundantly establish, that the premature and too rapid forcing of mental power necessitates undue interference with the natural evolution of brain force, which, instead of proving a benefit to individuals or to society, is, on the contrary, a prolific source of weakness, and by no means infrequently the cause of disease and death; that whatever interrupts or interferes with the acquirement of useful, or the ordinary recognised branches of education, ought not to be forced in the way which is too often done, for it is unquestionably in this very pushing of young brains, especially with too many subjects, after branches of study comparatively unnecessary to health and happiness, without which education is of little real and lasting service. It is assuredly to the extreme folly of parents punishing their offspring for the selfish and sinful pride of being talked of for cleverness beyond their compeers, not to mention far beyond themselves, that much of the mischief is traceable. Better far that many a so-called prodigy had been kept in boobyland, and within even the limited pale of the vulgar three '*Rs*,' than forced to strain every nerve to vault over poles beyond their power, should they irremediably cripple themselves, or even die from the attempt. Many an 'only child,' nurtured in the lap of luxurious fortune, and surrounded during its early educational years by all the influences which wealth can purchase, has only lived the young life which so often has told the old story, that culture unduly forced and nature unwisely pampered, may poison even the richest sap, and lead, where least expected, to the most poignant of all sorrow, that of those whose very lives have been sadly shorn by the unsparing hand of death falling on their most cherished hope and greatest joy. The results of the over-stimulating process of competition for bursaries and competitive examination prizes, like that for obtaining appointments in the Indian, Civil, and other services, are, to say the

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least of them, very unsatisfactory in a sanitary aspect. The determination to succeed, and the difficulty of succeeding, have blasted many a youth's health, and destroyed many a life which might have been spared to perform useful work if the springs of life had been only less severely taxed.

I require not to go out of my own path of daily professional duty to hunt up what might seem to be sensational cases, in illustration of the cram system of so-called education. The mental, if not actual, Diary of every Physician, whose more special work has been among the young, and as it were behind the scenes of their domestic and therefore early life, may readily furnish cases in point, and I could have no difficulty in citing many personally observed and well-remembered painful illustrations of this greatly to be deprecated overstraining of young minds.

It would be an unpleasant and cruel task to undertake that of publicly referring to any case, or actual cases, in which even the suspicion of educationally induced danger and death may have existed, and I certainly shall not do so now, although it might go very far to strengthen the position and duty I have on this special occasion been induced to undertake. The sacredness of sorrowing hearts, which the medical profession so well knows and so often keenly feels, must at all times be studiously regarded, and were this sense of respect for privacy less heeded, the Diaries of living Physicians would doubtless be frequently seen in print, and the wail of many sorrowful notes would be often, with telling force, poured into the heedless ears, and exposed to the dulled senses, especially of those who studiously, if not stubbornly, fail to recognise their discordant, and not unfrequently fatal significance.

In witnessing a school examination, and seeing the most delicate-looking children carrying off the greatest number of prizes, we are apt, while expressing our admiration of their seemingly wonderful talent, to ask, How such pale faces could manage to do so? forgetting that the prize-gaining was the cause of the former, and that, had it not been for the parents' pride and desire, the superiority of 'their own flesh and blood' publicly recognised, applauded and honoured, the passing show of the few shillings' worth of prize books had better not have been enacted at such a sacrifice of youthful brain power and health depreciation, as thus too often happens, out of the veriest folly on the part of those who ought to know better, and who, probably, in a very few years have nothing but the prizes left as memorials of the distinguished school life of the departed.

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This old and oft repeated story of early yet unfulfilled promise, the poignant regrets as to many of the very highest gifted of young Oxonians, whose brilliant powers and intellectual endowments are naturally looked forward to with more of hope than fear; all this early, and as yet unachieved desire and promise, though well calculated to fill us with large expectations, are often found ultimately to be painfully unachieved in mind or body, high hopes blasted, and fondly cherished expectations shorn of all the looked-for fruit, from the abundant and early blossom of many a specially nurtured tree, whose too early and over-stimulated growth has prematurely fallen to sickly decay—a penalty too often inflicted, and too seldom timeously observed.

Cram! Cram! Cram! like 'Stitch! Stitch! Stitch!' might well be often sung, and might, like the painfully stirring creation of Hood, a most useful though painful lesson tell. 'The Song of the Shirt,' just because of its very truthfulness in depicting the sore misery and gross injustice consequent on overtaxing willing though cruelly unrequited energy, at once reached a sympathising nation's heart, and better tuned its loosened strings. The key-note of 'Stitch' might be attuned to that of '*Cram*,' and if possible made a similarly vibrating chord. It would be most pardonable for any one gifted with the power to so write down (even in imitation of the inimitable 'Song of the Shirt') the equally forced-educational pressure, and too often ignorantly overtaxed brain work.

The so-called 'Educational Code' would seem to require considerable recasting, especially in regard to the point of the wasteful amount of labour demanded from the teacher; and the undue pressure which that work throws upon the mental energies of the pupil. When a powerful union of our most experienced teachers, associated for the purpose of doing what they can to promote the best and truest interests of education, when those who ought to be, and who unquestionably are, the best judges and our best councillors in the matter; when they take up the position which they have just recently done, when they say what they have lately and unmistakably said, that the new 'Code,' while it may have corrected one or two faults, has gone far to retard rather than to promote the intellectual growth of the nation; when such an educational authority publicly announces the opinion that the 'Code' system is much too mechanical, and that in other important respects it fails to be anything like what a new system ought to be, inasmuch as it is said to be specially weak in what should be in all systems of education especially strong, viz., the ultimate bringing out the

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most effective power and influence of individual advancement —Self-Help. If it be true, what the 'National Union of Elementary Teachers' have asserted, that 'the Education Code produces little or no incentive in the minds of scholars to continue their self-education after leaving school,' the sooner it is 'sent to Coventry' the better.

We may have enough and to spare especially of what has been well termed 'Sensational Legislation' on behalf of the beasts of the field, fowls of the air, and fishes of the sea. We have stringent protection laws, enacted for the preservation and well-being of beasts, birds, and fishes, including even the hard-crusted inhabitants of 'shells of ocean,' oysters, periwinkles, and cockles.

While our 'Herring Fishery Commissioners' may be safely intrusted with the charge of their important commission, it would be a great thing to hear of a 'Select Committee' being appointed to inquire into the necessity for legislative enactment in behalf of the safety and well-being of our children in regard to education. We have now School Boards instituted to enforce education in every direction, and now require some parties to deforce education, if unduly and dangerously pushed. An Amendment Act to counteract undue forcing is required, and therefore something like a Commission or an Act which might be entitled, 'The School Children's Anti-Cramming Act,' would be of great service, especially as under such a general heading there might easily be a clause inserted to meet other kinds of cramming, which need not here be more particularly noticed. But whether parents are or are not compelled to send their children to school, there ought to be trustworthy security legally afforded, as to their safety while there. It would, I think, be well if sanitary inspectors were appointed to visit, report, and advise as to the healthful or unhealthful aspect of educational work going on. If such a duty was properly and duly gone about, I believe an immense amount of benefit would accrue to all parties concerned, and that much sickliness and danger might thereby be timeously prevented.

But our question is too serious thus to compare it, or to speak of it, as if the testimony and guidance of commissioners most capable of judging of it aright were wanting. There are (and I know the best of them are of these opinions in this matter) 'Commissioners of Lunacy,' whose duty it is to see that facts are ascertained and wisely and prudently met in regard to those who are brought under their special commissional scrutiny. The said Commissioners in Lunacy, and Lunatic Asylum Superintendents, are entirely with us in the views now ex-

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pressed; they do not hesitate to report against the maddening influence of undue educational efforts, especially in regard to the transmission of hereditarily acquired, or more immediately aroused mental disturbance. It is indeed not too much to say of this educational disturber of required mental repose, that it is the crying evil of the age, for, if it be the case, which many with no small reason aver, that its very insanity has much to do with the filling of our asylums with useless brains (and if so, need I say, with worse than useless bodies); if such be, even in any degree; if education, which ought, and is, usually intended to encourage mental force, and thereby increase intellectual power; if it either directly or indirectly, hereditarily or otherwise, be found to obscure the light of reason, and to stamp out even its feeblest tracings; if this can be proved to be a not very uncommon result of extreme educational pressure—then it is more than high time that such a cause of a grave consequence be boldly met and speedily overthrown.

It cannot be too often repeated that in all races (actual or educational), it is the pace that kills; it is not in the due, but in the undue exercise of our mental and physical powers that intellectual and bodily health and strength can best be gained or maintained.

It may be in accordance with 'use and wont' to hold that professional educationists and well-trained teachers are or ought to be the best judges as to the proper and prudent way of administering knowledge to their pupils; that they are quite competent to conduct the education of our children, and that in the most effective manner, must continue to be admitted, and I am not here to throw doubt in any way as to this; but I am here not only to throw doubts, not only to question, but to deny, that even the very best of professional educationists, and the very best of trained teachers are better qualified, or even so well qualified to judge aright on the consequences of their great efficiency as instructors of youth, as those who have better opportunities of watching and noting results, long, it may be, after the teacher has ceased to remember the consideration and care he personally took in his pupils, and long after his favourite, because brilliant, pupil has vanished from his recollection, when parents and friends, and especially the doctor, who is too often called on to adjudicate, because the parties most interested in the issue, and most likely to form, by giving past facts and circumstances due consideration, a reasonable opinion as to the want of forethought and sanitary wisdom of bygone and painfully resistless educational pressure.

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The question which I have been asked, and endeavoured in a way to answer, naturally flows from, and is naturally suggested by, the very fitting question now offered for discussion by this the Educational Section of the Social Science Congress. The two most important social questions are probably those of *Health and Education.* The former tampered with and undermined, and the latter neglected and evaded, sap the very foundations of society, and alike weaken the sinews and nerves of nature, the strength and the power of whose functions are so obviously dependent on their due maturation and prudentially sustained exercises.

'What is education without health?' is a question suggested by that of 'What may be the dangers?' and I cannot imagine any two so necessary to determine or so appropriate to the occasion, unless it be that of 'What is education without common sense?' This so-called 'common sense' is, in this matter, much too uncommon.

If there be anything like the amount of truth which I believe there is in what I have now stated, we can have no great difficulty in suggesting the proper remedy, and that is a change, if not a thorough reconstruction of the present very unsatisfactory, because most unsuccessful, system, which seeks to cure all sorts and all degrees of ignorance by the same tuitional treatment. A medicine is of little or no value to the patient if the end for which it is prescribed be not attained, neither can the recommendation nor the administration of the schoolmaster serve their intended good purposes unless with a similar result.

Educational views and appliances, however, are gradually getting more and more suited to educational requirements; and it cannot be doubted that the short-comings and the fast-goings of the past are now being judiciously corrected. The schoolmaster is really abroad, looking backwards and outwards with a single eye, worth a dozen of his old-fashioned goggles; and the very fact of a question like the present being put to the Educational Section of a Social Science Congress, which can so well boast of scholastic name and fame, clearly indicates, that what is proved to be still dangerously unworthy of the advanced, and still rapidly advancing spirit of the age, will be compelled to give way, and yield to the overpowering influence of mature judgment.

It will, as a matter of course, be urged, that there are 'two sides' of the question, and it may be correctly enough argued that I have been looking only at one of them, and that from a special and too circumscribed point of view. My reply to

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this—if reply to any such expression of opinion be necessary—is, and will be simply 'quite true' in respect to the latter, but not altogether so regarding the former, which has not merely 'two,' but too many sides requiring to be viewed and reviewed, not from one or two, but from innumerable points, before any one can tell or say much about them.

I am here to tell, and to speak some unpleasant things in regard to education, which I have personally witnessed, and that with the sole view of aiding others, so to observe them as to lead to their ultimate removal, if such be at all possible. Our freely ventilating the subject, even from a one and limited point of view, may tend to stay some of the 'DANGERS' referred to, and thereby ameliorate, if not cure, the evil consequences which, we have too good reason to believe, result 'to BOTH SEXES' from 'EDUCATIONAL OVERWORK.'

On the Same.

By EDITH PECHEY, M.D.

WITHIN a comparatively short number of years a complete revolution has been effected in the middle-class education of this country. There have been opened up for girls as well as for boys educational advantages infinitely exceeding anything attainable by the last generation. Desultory instruction and a smattering of accomplishments have given way to systematic and solid teaching. No one, I think, can visit any of the existing high schools, or converse with girls who have been educated in them, without being impressed by the evident marks of a superior style of education, both as regards methods of teaching and subjects of instruction. I do not for one moment mean to say that the last generation had no good schools. There were, as I know, private schools twenty or thirty years ago as good as any in existence now; but they were for the few, whilst the education open to the many was of a very inferior description. Of late years not only has the standard been raised in most private schools, but a new class of schools has been established, especially as regards girls. And whereas eight or nine years ago a high school for girls was a novelty, so quickly and so highly has the system risen in public favour, that there are few considerable towns at present which have not such a public day school.

And, considering how quick has been the growth, I am filled with amazement (knowing how long, as a rule, educa-

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tional measures are in ripening and in reaching any definite shape) that they have attained such a degree of perfection, that the teaching in them is so good, and the regulations on the whole so satisfactory. This is partly due, no doubt, to the very sincere desire on the part of the public to provide improved educational advantages for the next generation, both as regards the middle as well as the lower classes, for whose sakes the present race of ratepayers are submitting to a taxation which falls rather heavily upon some of them. But it is no less due to the earnest and praiseworthy efforts of the heads and teachers of the high schools, who, with all the disadvantages connected with the limited supply of properly trained teachers, and the somewhat crude ideas of the public as represented by committees (and, I must add, their own necessary inexperience in the work), have nevertheless managed, by dint of hard work, and sometimes, it is to be feared, overwork, to produce results which as a whole are satisfactory both to themselves and the public.

But, whilst they and we have ample reason to be gratified with the progress made, they especially must be aware of reforms and improvements still needed; and the present is a most fitting occasion for the heads of schools to meet the public, that they may confer together upon points which occur to each as requiring alteration. Such a friendly discussion cannot fail, I think, to be of service, where each side comes with the common wish of benefiting the schools, and in no antagonistic spirit, as if the interests of all were not the same. The solid genuine success of the schools must benefit the head masters and mistresses as well as the schools, and through them the public generally. It is, therefore, in no spirit of fault-finding, but with an honest desire to elicit an expression of opinion from those whose experience gives to their words especial weight and value, that I venture to put forth a few suggestions as to possible methods of further improvements in the arrangements of these large day schools.

Let me remark at the outset that throughout this discussion it should be borne in mind that public schools, and especially day schools, are establishments for *healthy* children; that the regulations are drawn up to meet the requirements of ordinary children; and that delicate boys and girls should not, as a rule, be sent to them. If such an experiment is made it should be carefully watched, so that the hours may be shortened or the child removed on the first symptom of overwork. But this watching is the duty of the parent, not of the teacher. In a boarding school the numbers are sufficiently small to allow

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of the health of each child being under the direct supervision of the head of the house. But it is too much to expect that the mistress of a large day school should, in addition to her already onerous duties, take upon herself the responsibility of watching the health of each individual of the many hundreds under her care. I sometimes fear that English parents are rather given to think that if they feed, clothe, and pay for the education of their children they are freed from all further responsibility, and need hardly concern themselves to see anything of them from week's end to week's end. And whilst throwing out this hint to parents I may mention one cause of overwork at school which, I think, must also be laid at their doors. Children are often sent to school so profoundly ignorant that they have to work twice as hard as they would otherwise need to do in order to attain the standard required of their age. Now, in my opinion, no grown person should be able to remember the time when he could not read. Talk of 'Reading without Tears!' why, learning to read should be, and can always be made, an amusement, a game. And this is the especial province of the mother; but if, as is so often the case, she is in the position of the old woman who lived in a shoe, there are now generally excellent Kindergarten schools, and I have never heard any complaints of overwork made against the system adopted in them—the best substitute thus far for home teaching; though no one, I venture to think, who in early childhood has had the advantage of the companionship of educated parents will be willing to concede that any school system can compete favourably with that higher education which may begin at the most tender age, and which is derived not so much from lesson-books as from personal contact and daily conversation with those who are intimately acquainted with the great masters of thought and learning in all ages.

But to pass on more especially to the schools. The most vexed question, and that which presents the greatest difficulty, is that of the hours. It is evident that this has attracted the serious consideration of both teachers and Councils, for in some schools alterations have been made and various plans adopted one after the other; for instance, in the North London Collegiate School, as explained by Miss Buss, in her paper read last spring before this Association. In the arrangement of hours regard should be had rather to winter than to summer, both because our climate gives us more of the former than of the latter, and also because the longest vacation falls in the summer months. Now, if, as in some schools, the work is divided between the morning and afternoon, with an in-

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terval, say, of two hours—that is, from 12 to 2—for dinner. parents are apt to complain of the frequent wet walks to and from school; for the majority of pupils who live within reasonable distance will go home to dine. The walk to and from school, too, together with dinner, occupies the whole interval, leaving in the winter no daylight for play; for children as a rule look upon a set walk, especially in a town, as anything but a pastime; nor can it properly be regarded as equivalent to a good game which brings all the muscles into action, and besides draws out many valuable mental qualities.

If, on the other hand, as is the practice in other schools, the whole day's work is compressed into the morning, the physiologists are down upon the unfortunate head mistress for keeping young minds on the stretch for so many hours together. And doubtless there is much truth in the complaint; but we must, I think, admit that it is impossible in a large day school to have a perfectly ideal system, and, after weighing all the pros and cons, fix upon that plan which seems to work the best. We have the opinion of a lady of large experience in favour of the long morning's work; and if, as in her school, there is half an hour's interval allowed for lunch, and a few minutes between each class, I do not think that ordinarily healthy children should suffer from such an arrangement, provided the conditions under which they work are healthy. Miss Beale's plan of providing so wholesome and, to most children, so digestible a food as milk for luncheon, seems to me worthy of imitation by all schools.

Of course a great deal depends upon how the work is planned and carried out; and here I would venture upon two or three suggestions. In the first place, let the most difficult lesson come first on the list, so that the children may come fresh to it; and do not allow two difficult subjects, or two subjects requiring the exercise of much the same mental faculties, to succeed each other. Of course I may be met with the objection that the subject which is hardest to some minds is easiest to others; but as a rule arithmetic, algebra, and geometry are difficult subjects to most children, because they require unbroken attention; and as regards variety one could not, perhaps, do better than to follow up one of these with a lesson in history or in some language. Second, I consider it bad for girls under sixteen to have much writing, especially note-taking. It is apt to injure both the figure and the handwriting, and is very fatiguing to the brain. It is the fashion in many schools now for teaching to take the form of lectures, and for the pupils to take notes. Now, there is a great art in note-taking, which only a few

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possess, of jotting down real notes—a few words here and there throughout the lecture which will recall afterwards the gist of the whole lesson. But those who do not possess this gift have but two alternatives: the one to listen and remember as much as possible, committing nothing to paper; the other to write down, as far as possible, the whole lecture. Now, as young girls cannot as a rule write fast, either the note-book becomes a perfect muddle or, with an indulgent teacher, the lesson degenerates into a dictation. Suppose the first. The pupils then have to make a fair copy, which the teacher corrects; but even if there is time for the children to study the corrected copy first impressions are generally the strongest, and 'How could I have got Daniel on my notes unless you told me so?' is generally uppermost in the mind of the unfortunate note-taker, who finds his sentences corrected to the very opposite of what he had written down. But others besides the pupils suffer from the increase of work caused by the lecture and notes system. I have no examples of overworked schoolgirls to bring before you from my personal experience. The few who have been brought to me have been delicate girls who should never have been sent to a public school; and, on the other hand, some parents, who had doubted their children's power to stand the work, have, I know, been pleased to find that the regular hours, and the interest and enthusiasm aroused by companionship in learning, have greatly improved the health; and this I should expect to be the case with all well-regulated schools. But there is another class to be considered in this question of schools, and one which is frequently much overworked in consequence of the note-taking system. I refer to the teachers. Is it reasonable and fair to expect good teaching when, every day after school hours, there remains not only the preparation of next day's lesson, but also a huge pile of note-books to correct? I am sure all teachers will agree with me that there is nothing so tedious and fatiguing as correcting notes; and this labour ought to be reduced as much as possible, so that the teachers may have time to refresh themselves with exercise after the day's work, and then have a few hours in the evening to plan and think over the lessons they have to give on the morrow. From the old dull method of repeating by rote we have, perhaps, run rather into the other extreme. If the pupils prepare a given portion of a text-book there is still scope for a most interesting lesson by way of elucidation and illustration; and if interleaved text-books are provided, a few words jotted down in the right context will recall at any time afterwards the whole substance of the lesson. But regular lectures should, in my opinion, only be given to the elder girls.

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A third point, and one that I am glad to find is carefully attended to in several schools, is that the studies should be carried on in fresh air. I cannot but think that many breakdowns are due not so much to overwork as to the work being carried on in a close atmosphere. Most of the day school companies, not being prepared to build at the very outset, take some large private house and adapt it as far as possible to school requirements. And then the Council go and inspect it; and, seeing rooms perhaps twice the size of their own drawing-rooms, say, 'What very nice rooms!' and never imagine for a moment that under any circumstances they can become close, quite forgetting the numbers that will have to occupy them. They are, perhaps, supplied with Tobin's shafts or some apparatus for letting in fresh air; but the most important point of all—that, namely, of providing for the egress of foul air—is not attended to at all. This is no doubt the most difficult and the most costly part of ventilation, but at the same time the most important. In the largest and loftiest class-rooms, with windows constantly open, children will occasionally faint from the closeness of the atmosphere, if the foul air is not got rid of. In a perfectly arranged room there should be no necessity for opening windows. Our cold, damp climate renders it always unsafe for children to sit with their backs to an open window in winter, and yet in many of our schools this is necessary in order to keep the atmosphere in any measure fit for respiration. Time forbids my entering further upon this matter; but I cannot too strongly urge its consideration upon the attention of the Councils and heads of large public schools.

Two objections have been raised against having playgrounds for the girls in large day schools: the one, that the tone, both physical and moral, of the pupils would suffer; the other, that girls will not play. Now, the great advantage of a school playground is that games can be properly organised there. At home it is only in few families that there are enough children of an age to make up a game; whereas at school the numbers are always forthcoming, and the ground can be properly arranged for a variety of games. With regard to health it would not, of course, be wise to turn children out in the wet; but wherever the funds will permit a covered gymnasium should be built. And as to the moral tone of the school I do not see why it should suffer more in a playground for girls than in one for boys. I have never found girls as a whole worse than boys; and if the under-mistresses turned out for a game, as the under-masters do in boys' grammar schools, they would benefit, and the children would then be under friendly supervision. Twenty

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years ago I know it was difficult to get schoolgirls to play; but I have always considered it a symptom of the healthy influence which the present High Schools exercise, that there is a decided change for the better in this respect, and that girls can be quite enthusiastic about tennis and cricket and rackets. And not only during their school-days is this so, but those who afterwards become teachers keep up their love of exercise, and are always ready to join in and direct the games of the children.

I have left myself no time to speak of that which more than anything else is a fertile cause of overwork. I refer to public examinations; but the public are so alive now to their bad effects and ill results, that it is to be hoped they will shortly be modified. Of course we need some test of efficiency, but that with which examinations furnish us is but a very rude and imperfect one. They afford, indeed, only a test of the candidate's faculty for pigeon-holing facts in his brain—arranging and assorting them as a post-office official does letters—but no test at all of his powers of reasoning upon and making use of the facts. And when we consider how even those facts with which a brain has been crammed ooze out as the owner of the brain leaves the examination, till a week or so afterwards he would stand but a poor chance of passing, we can appreciate how injurious must have been the nervous tension required to keep the facts in their place till the appointed day. Every good student hates examinations, and looks upon them as hindrances to all real solid work; and how often one hears the remark from good teachers that their best students never do well in examinations! Nor do we find, I think, in after-life that the race is always to the swift or the battle to the strong, if these are they who bear off the laurels at competitive examinations.

DISCUSSION.

Miss Lumsden (St. Andrews) in opening the discussion said:—We have just been told that two objections may be raised against playgrounds for girls—one that the tone, both physical and moral, of girls would suffer, the other that girls will not play. These objections have been already met in the Paper we have just heard. I wish, however, to add that far from the health of girls suffering from play in large playgrounds, I am convinced it would be, on the contrary, benefited. Dr. Liebreich, in his lectures on school life in its influence on sight and figure, notices particularly the antidote which boys possess, in their games and bodily exercises, to the necessarily constrained position in which all the written work in the school must be done. This constrained position

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is apt to produce, we are told, lateral curvature of the spine. This disease, we are further told, is much more common among girls than among boys. Surely, then, if games offer any antidote to this they should be carefully cultivated among girls. But I cannot understand any one seriously arguing that, physically, games *can* be bad for girls. The point does not seem to require argument. The moral objection may be more fatal. Miss Pechey has suggested—allowing the danger which exists in play, unguarded and unguided—that the under-mistresses should turn out for games too. For my part I do not see why all the mistresses, the head mistresses, too, should not play with their girls, but it seems to me a mistake to insist on always having the girls under the supervision of mistresses. What is the use of the head girls—the sixth form? *They* ought to guide and organise the games; in an old-established school the playground might surely be safely left to their government. But I do more than merely assert that play can be morally harmless. I believe it to be morally a most powerful instrument for good. From play—organised play—girls will gain not only active limbs—nerves and muscles healthily braced—but also must gain patience, good temper, toleration, the power to stand a beating good-humouredly, to fight for a side and not for self. They will learn, too, both to obey and to command—and nothing teaches obedience to law more surely than the responsibility of having to enforce laws: for the organisation of the playground should be, as I have said, in the hands of the upper girls, and the younger ones should be trained to play, just as boys are. Boys do not play by nature any more than girls do. The play of English schoolboys is the outcome of a time-honoured and highly organised system. But what an inestimable good it is for them that they have gone through the discipline of the playground, I believe few public school men would deny. Play has been, it is true, carried to a ridiculous excess in some boys' schools. But it is hardly necessary to hold these up as a beacon of warning to girls' schools. *They* are not likely to err in this direction. It is a training of this sort that I wish to secure for girls. I have, indeed, already to some extent secured it for a small number in St. Andrews, and of its excellent effects on the character I can testify from personal observation. Others seem to look upon play and playgrounds as luxuries of school life. In my eyes they are necessaries—essential to a perfect school life. Expense is the one obstacle in the way of having playgrounds, tennis and fives' courts, even play halls for wet weather, and all the rest of the apparatus for play, so to speak. I should like to add cricket-fields. Well, I admit that these things cannot be expected to spring up among us fast, nor by magic. But a considerable step will surely have been made towards *having* them when we realise that we *want* them. When we have got good, large, adequate playgrounds—private, too, if possible, not overlooked—and when the younger girls have been trained to play—trained under perhaps some amount of compulsion—then the second objection, that girls will not play, will be proved as unjust as the first. Even as it is girls do play—rounders, tennis, cricket—and surely, no one who knows anything of the life and mind of girls can deliberately regret this, and desire to throw them back upon the old lounging and gossip, and

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dreary walks in twos and twos, as works of exercise and amusement. No, sound, healthy, happy play—and to be all this play must be organised—is essential to school life. I for one believe the lessons of the playground to be as valuable as those of the schoolroom, and am inclined to agree with an excellent and successful head master, who in his speech on the annual prize day of his school lately said, 'Next to Play the most important thing is Work.'

Dr. Pryde (Edinburgh) said they were not to infer from what Dr. Keiller said that the general result of school work was debility of body, and that the most of the prize takers broke down and either led a weakly life, or came to a premature end. Dr. Keiller seemed to think that competitions in schools for prizes and bursaries should be abolished, for competition ever resulted in evil. But they must beware of thinking that because any system was attended with disadvantages that therefore it was a wrong system. He (Dr. Pryde) said that a certain amount of competition at schools was a necessary evil. They might abolish prizes, and bursaries, and scholarships, and still they would have competition. And even if they could stop competition, he did not think it would be advisable. Without it, the great mass of the pupils would do almost nothing whatever. Statistics he had on the subject showed that it was not those who worked, but those who did not work at all, who broke down before the end of the session. And the reason of that was obvious. The latter were the pupils who were not attended to at home. They were allowed to prefer pleasure to duty, to rise when they liked, to breakfast when they liked, to go to as many parties as they liked, and sit up as late as they liked. When these pupils came to school they did nothing, their health broke down, and the school got the blame. The remedy lay in the enlightenment of the parents on the subject, and that should be done by their medical friends.

Mr. T. E. Heller (member of the London School Board, and Secretary to the National Union of Elementary Teachers) felt very much disposed to take the view expressed by the previous speaker, though in a somewhat modified form. The readers of the Papers had both agreed that there existed an amount of pressure upon a certain section of the scholars in the schools of the country which was decidedly prejudicial to them personally, and also detrimental to the general character and progress of the schools. He would draw attention to the limits to which this question ought to be confined. Speaking with reference to high schools, private schools, and also elementary schools with which he was more intimately connected, he believed the large proportion of scholars could very well bear the pressure put upon them. Therefore, it became simply a question of narrowing down the limit to the few and applying the remedy to them. A strong pressure had been brought to bear upon many pupils by the method of lecturing and note-taking adopted in these schools, which left little time to the pupils for those healthful exercises which Miss Lumsden had referred to as necessary. Many of the teachers—he would not say all, but a large proportion—especially of the assistant teachers in the higher schools, were utterly ignorant of the science and art of education, and methods of teaching had been

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adopted by them to which a great deal of the pressure complained of might be attributed. Work was pressed upon these scholars which was only productive of evil. Unable to adapt themselves to the circumstances of the pupils, many of the teachers simply repeated the class room or university lectures they had themselves received, and this forced upon immature minds knowledge in such a form that it could not be properly assimilated. This did not apply to some of the best schools, but he was certain, from his own experience, that there was a large amount of this injurious pressure thus brought to bear upon the pupils of the higher class of schools. Again, the standard of education was very much influenced by the kind of inspection and examination to which the schools were subjected. Very much of their faulty work was attributable to the character of the examinations. The teachers were largely in the hands of the examiners. They formed their work upon the models given in previous years, and there resulted a system of 'cram' which did little good educationally to the children, and brought about the amount of pressure complained of. Another point to which he wished to refer was the amount of special pressure upon girls in elementary schools, against which he must emphatically raise his voice. The Government for the past few years had been pressing upon the country a system which had done immense harm. Girls were now required to pass the same examination as boys, while at the same time they had a large amount of needlework and other special work to do. The present system drove a large number of children, whether fit or not, into examinations. A more irrational system could not be devised, because it not only inflicted an enormous pressure upon those least capable of bearing it, but actually removed pressure from those able to bear it. The country lost a great deal educationally by this system. He was pleased to hear the remarks of Miss Lumsden respecting the desirability of having playgrounds in connection with all public and private schools. It would be a salutary thing for all private schools to be under inspection, so that there should be a public guarantee of good work and efficiency. With respect to the overworking of girls, the amount of needlework they had to do was producing harm all over the country. He had ascertained that, during the last few months, in the whole of the southern counties, and in some of the northern, needlework would cease to be taught except to fulfil the general condition of the grant. That, at any rate, was what the teachers were saying. He felt it his duty to raise his voice against the present hardship to girls in elementary schools, and he also must say a word on behalf of a vast number of boys and girls in the high and middle schools.

Dr. J. Grierson (Edinburgh), agreeing with all that had been set forth in the Papers, said there was yet one view of the question which had not been alluded to. One important function of education was, besides the gaining of knowledge, the training of the mind. To endeavour to force into the mind in one month that which it ought to take six months to teach was decidedly to deteriorate the mind. The vast importance of what was learned at schools was, however, not so much the thing that was learned as its influence in after years. A good deal of what one learned at an academy was forgotten, but the influence

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and the culture remained. He agreed with those speakers who believed that competition could not be done away with. He lamented that such was the truth; it was owing to the degradation of man. He admitted that all men sinned. Competition was bound up with the present state of humanity. If every man did thoroughly to others as he would be done by, competition would not exist.

Dr. A. W. Potts, LL.D. (Fettes College, Edinburgh), believed there was danger of over stimulation in schools. It was the necessary result of the competitive system. He did not intend to oppose Dr. Pryde by taking up the cudgels on behalf of unintelligent parents. Because we had to contend with injudicious, over-indulgent parents, it did not follow that there was no danger to be apprehended from over-anxious parents. As the master of a public school, some of his best work had been in repressing the too great enthusiasm of generous boys. But competitive examinations for public appointments were absolutely necessary; no one, he supposed, would propose to go back to patronage. The competitive system, however, exposed schools to great dangers, and it was the duty of teachers to see that the work was not excessive and was within the scope of the physical and intellectual power of those concerned. There was no doubt a deal of brilliant promise in young university students which was never realised in after life. A very large number of those who obtained distinction in medical and other professions pointed to no great school from which they had come. A brilliant boy might enter his university career with an impaired digestion and over-stimulated brain, and find afterwards that he could not hold his own in the struggle of life against those who entered with inferior knowledge, but with a vigorous and healthy system. Referring to school-hours, he had never known a youth capable of receiving instruction for five consecutive hours. The hours in Edinburgh day schools were generally from nine o'clock to three with no intervening break, and, adding to this the time necessary for the preparation of lessons, he thought the amount of work involved was more than the young could safely bear. As a matter of fact, these hours took the main part of the light of a winter day. Plenty of fresh air and exercise were necessary, and proper provision should be made for the recreation and food of pupils attending every school. This was a big question, the end of which had not been reached. We had passed suddenly from the principle of leaving children to run about the streets to confining them for long hours in schools. With regard to competition, there was in every healthy mind a thirst for knowledge which required no undue stimulation when the education given was suited to the capacity and intelligence of the pupil. There was a serious danger that the present competitive system and the growth of the primary education of the country would give rise, unless proper precautionary measures were taken, to a loss of that physical vigour and stamina which were so essential to the well-being of the country.

The Rev. Dr. Rigg (Wesleyan Training College, London) entirely agreed with the remarks contained in Miss Pechey's Paper, as he did also with the observations made by Miss Lumsden. The Paper was the wisest digest of the subject he had ever heard or read, and now it

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was placed among the transactions of the congress he had no doubt it would receive the attention it deserved. Miss Pechey had justly condemned many practices in girls' schools. He was acquainted with many girls' schools in London, and he would give an instance of a large one successfully managed, where there had been no complaints of overwork. The school accommodated 340, and would soon be enlarged to accommodate 600. Everything was taught in it which was taught in other girls' schools, except Greek and Moral Philosophy. The school had had a career of unbroken efficiency and success, and the reason was that the teacher was thoroughly trained, and knew what teaching meant. The hours were from 9.30 to 3.30, of course with half an hour's interval, during which there was a complete ventilation, so that the subsequent teaching might take place in fresh air. The neglect of ventilation had much more to do with the breaking down of scholars than the neglect of any other one principle whatever. As to competition, that was not a thing to be ashamed of or afraid of. Competition, properly used, was no greater harm in school than it was in play, and was the essence of life when rightly understood. The mischief lay in the system of dragging children from various schools to compete with each other, making that a test of the school and the teachers, and infusing a degree of intensity into the work which was altogether unnatural. These competitive examinations were a necessary evil when they began. They had done a great deal of good in probing and exposing, but the sooner schools were so organised that they could do without them the better. Competitive examinations would always be necessary for some purposes; for instance, as professional tests. If Miss Pechey's rules were worked out, there would be no further need for the outcry against the overwork in girls' schools. In the school to which he had referred, play in the playground was an ordinary part of the day's curriculum. Play was generally indulged in before the school began, always more or less during the interval allowed, and sometimes for a while after school hours. The head mistress was amazed at the sentiment which had been expressed, that it was difficult to get girls to play or to secure propriety in play. If the principles indicated by Miss Pechey, Mr. Heller, and Miss Lumsden were properly recognised, the present very just lamentation in regard to over pressure in girls' schools would be brought to an end.

Mr. Rowland Hamilton (Hon. Secretary of the Department) cordially agreed with much that had fallen from Dr. Pryde. A want of common care and of appreciation of the means required to enable children to pursue their studies was far too prevalent. Such evils could only be met by a general diffusion of sound knowledge, especially among parents. He deprecated the idea that the curriculum of a school was to be blamed because of instances like those to which Dr. Keiller had referred. Schools differed much in this respect, and it was for parents to make a wise selection of those which were best suited to the mental and physical condition of their own children. Hard and fast lines should be avoided in dealing with the knowledge of children at certain ages. Some were more backward than others, by nature or accidental cir-

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cumstances, and nothing could be more injurious than work unduly forced, to make up for such arrears. He would wish to add a remark as to 'note taking,' which should be one most useful method of instructing children. It taught them how to fix their attention on the leading points of an argument or statement of fact, and to think definitely, in order to reproduce their thoughts intelligibly. It was an abuse of a good system to leave children to do work of the kind unaided by special instruction. The natural capacity for such 'note taking' was very unequally developed in the young, and it was, therefore, a most unfair test of other kinds of knowledge; but it was not the less a faculty which had a high value of its own, and should be carefully cultivated for its own educational value. Competition was a much abused word. Its true meaning was a 'striving together,' and, so understood, it was necessary to the healthy life of society in all ages. Healthy competition of this kind was active in every playground, and gave a zest to the sense of companionship, which was the very essence of civilisation. To read into the word the meaning of *contra*-petition, of striving against, instead of in fellowship with our fellows, was a degradation of a good word, which was quite without justification. The two kinds of so-called competition were as wide apart as the poles.

Miss Flora C. Stevenson (Edinburgh) remarked that almost everything that could be said in regard to the dangers arising from overwork had been said. They were all agreed that there were dangers of overwork in elementary schools; but she feared they were rather apt to lose sight of the advantages which had resulted from the establishment of public elementary schools, as regarded the health of the children. She was sure that any evil which was done to the health of the children of the lower classes, by any overwork in the schools, was compensated for by the advantages which accrued to their health and condition, from the improved school-rooms in which their education was now carried on. In playgrounds the elementary schools had a great advantage over the secondary schools. She did not know one large public school in Edinburgh, where secondary education was carried on, which had a good playground. All schools should be required to have playgrounds, not only for boys, but for girls. In Edinburgh injustice had been done in connection with the day school for girls established by the Merchants' Company out of the hospital funds. It was said that the girls did not require a playground; and the Merchants' Wanderer Hospital, with its large grounds, was converted into a boys' school, and a house in town with no playground was taken for the girls' school, and so a boys' school was erected instead, and the injustice was done on the plea that girls would not play. Overwork was a good deal due to the present system of inspection. If we could go back to the old system, by which schools were judged by general results obtained from the classes, rather than from the individual examination of children in separate standards, it would be a great gain to the schools.

Mr. J. R. Langler (Vice-President of the National Union of Elementary Teachers) said the last speaker had pointed out a matter of

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vital importance in connection with the public elementary education of the country, for the pressure put upon children was no doubt very great in many schools. But sufficient stress had not been laid on the fact, that the teachers themselves were very frequently put under great pressure. As to note taking, the general experience was that if an indulgent teacher spoke slowly it became a mere dictation exercise; if rapidly, the children simply made a muddle of their books. In such cases the shortcomings must be due, and were due, to the fact that there were too many inferior teachers. Superior teachers were very much wanted; teachers of ability, who could so teach that all their work was effective. If such teachers could be secured, and funds enough to pay them, then the complaint of overwork would disappear. It was worry rather than work that injured both teachers and scholars. The reason that children were overworked was sometimes to be found in the fact that the teachers were incapable. The untrained teachers, in the middle-class schools especially, fell short of the desirable requirement on account of their ignorance of good methods. He agreed with Miss Stevenson in her remarks about the present examination system. Incalculable injury might be done to school-work by an unsympathetic inspector. It would be a great advantage, if practicable, that children should pass the examination for labour without the wear and tear of forced special preparation for the annual inspection. It might happen —indeed it had happened—that a whole class had been pronounced to be of low attainments by an inspector who had accidentally put his first few questions to the dullest boys. If the minute individual examination could be postponed until the presentation for the labour pass, there would be a great gain to the educational system.

Mr. Joseph Lupton (Leeds) thought that Dr. Potts, in his remarks in reference to playgrounds, had not taken sufficient notice of the fact that the Elementary Education Act had given rise to a better system of recreation for children. In Leeds there were twenty-nine elementary schools, each of which had an excellent playground. Dr. Potts had not given full credit to the Legislature in this respect. He thoroughly coincided with what Miss Pechey had said in her Paper, which was the most able one he had ever heard on the subject. He also, to a large extent, agreed with the writer of the first Paper. They all took an interest in this subject; and as many of them were pushing forward the middle class education of girls, it was their duty to see that too much pressure was not put upon the girls of the country.

Miss Mary Burton (Edinburgh) had been very much interested in the discussion, but when they talked of overwork in the schools they should consider what they could take away from the work. Now, too much time was given to the subject of grammar in elementary schools. The grammar with which the minds of the children in the elementary schools were tormented might far more successfully be imparted at later stages. If teachers would unbend in the playgrounds and play with the children, a great deal would be done in the direction of lessening the evil they all complained of. In the playground the teachers, by their language, could impart more grammar in a week than could be learned by some children in six months in the school-room. She

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regarded a playground as an essential to the success of a school. She remembered that when a girl the school her brother attended was famous, not so much for the teaching given, as for the fact that the head master joined heartily with the boys in their play. She agreed with what Dr. Pryde had said in reference to parents not paying attention to their children and their lessons at home. Competition, she felt, was quite necessary. With regard to annual examinations, it had been said that teachers frequently found means to cheat the inspectors. Any system which did not guard against this was not at all perfect.

Miss PECHEY, in replying, said she entirely repudiated the idea that girls needed supervising in their games, from a moral standpoint. Of course in all large schools there would be found a boy or a girl here and there who proved quite intractable, and who seemed almost as if born without a conscience; but these were the black sheep of the flock, and it was the duty of a good master or mistress to weed out such on account of their bad influence, and see that they were removed from the school. She thought it was beneficial for the younger teachers to join in the games sometimes, both on their own account, and because children wanted starting in their games by some one old enough to take the lead, otherwise they were apt to hang about the playground doing nothing. She entirely agreed with Miss Lumsden in her remarks with regard to the teaching of Latin and mathematics. She knew she would be expected to hold up science as of primary importance, but mathematics formed the basis of almost every branch of science. Latin, too, was not only of great educational value in itself, but it entered so much into our modern scientific nomenclature that anyone ignorant of Latin and Greek would have to look up the meaning of about two words in every line when reading many of our modern scientific works. She held to her opinion that the younger children ought not to be required to take notes.

Dr. KEILLER, in reply, said his argument was not that competitive examinations should be done away with. Miss Pechey herself, by her presence, gave evidence of the fact that competitive examinations were not always injurious to health. And Miss Pechey was an able and comprehensive note taker.

The President (Lord BALFOUR OF BURLEIGH), in summing up, said they had had a very practical discussion, engaged in by people who were qualified, many of them by life-long study, to speak on the subject. He thought the debate had tended to establish one point, viz. that there was a very great danger of overwork, more especially among girls, unless precautionary measures were taken to guard against it, and the evils which flowed from it. He thought, however, that Dr. Keiller, in referring to the overworking of girls, had not sufficiently allowed—as had been pointed out by Miss Pechey—that many such girls were not thoroughly healthy when they started on their work. It would, moreover, be manifestly unfair to lay upon the teachers the task of endeavouring to gauge their capacity for work. The teachers were occupied with too much arduous work, and only saw the scholars for too short periods, to be expected to do so. The evil was, to a great extent, to be laid at the door of the parents or guardians. These were the right

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persons to judge whether or not the children were suffering from overwork, and the remedy was almost entirely in their hands. He entirely agreed with what had been said by Miss Pechey and Miss Lumsden as to providing good recreation for girls as well as boys. All work and no play made Jack's sister a dull girl as well as Jack a dull boy. He was glad so much attention had been given by speakers to this point. Competition had been too hardly dealt with, and ought not, he thought, to be regarded as an evil at all. In his young days he used to like competition. It was quite unnecessary to have anything like jealousy or bad motive imported into competition; but he regarded a friendly rivalry among children at school as not only a healthy thing in itself, but a desirable stimulant for other purposes. No doubt great demands had recently been made upon girls by the Government, in respect to sewing; but they would all agree that it would be a specially unfortunate thing if this and other branches of domestic economy, so important to girls, were left out on account of overwork. It would be better to curtail or leave out of the curriculum other subjects, rather than to leave out the subjects which were of special importance to girls.

TEACHING OF HIGHER SUBJECTS.

How far, and under what Conditions, ought the Teaching of Higher Subjects to form Part of a System of National Education? By GEORGE ROBERTSON, LL.D.

IT may be taken for granted that, wherever this question is asked and answered at the present time in this country, representatives are to be found of two opinions diametrically opposed to each other. The one opinion, of which the 'Saturday Review' may be taken as a pronounced exponent, is that in a school meant for the labouring and other poorer classes of the community only the three R's should be taught, and that the acquirements of the teacher in such a school need be only of a limited and inexpensive kind. The other opinion is, that to every child born into the country, whether rich or poor, an opportunity should be afforded by a school, placed within a reasonable distance of his home, of acquiring whatever culture his inborn talent may be capable of, and so of serving the State to the utmost of the ability given him by God. Those who hold the former opinion maintain that by introducing the teaching of what are called higher subjects into schools meant for the labouring classes, you distract the attention of the teacher from what is his proper work, and so deteriorate the quality of the instruction given in the essential subjects of reading, writing, and ciphering, while you stir up hopes and

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ambitions which can only at best, in a very few exceptional cases, be satisfied, and the disappointment of which in the case of the great majority must sour the temper and render them discontented with their lot in life. And it is added that this ambitious aim in education is not only barren of results, but is followed out at an expense to the country which is wasteful and needless. Those who hold the latter opinion maintain that by placing in a school chiefly devoted to elementary subjects a man of culture, capable of giving instruction in the higher branches also, not only is the elementary instruction not deteriorated but improved, the intelligence of the children greatly quickened, and the whole tone of the school raised. They also assert that if the expense be greater, the money is well laid out, and that there will come an ample return, not only in the general improvement of manners throughout the country, but even in the material wealth which the greater skill and higher knowledge of our workmen will bring to us from the fierce struggle which we must now maintain in the markets of the world against foreign competitors.

It is not to be hoped that anything which can either be written or said will convince either of these opposing parties. The question, like many others, will be settled in the long run by the logic of events; and a Scotchman can have little doubt on whose side the decision will be.

A further preliminary word as to one or two of the terms used in the question:—

(1) As to the term Elementary School. No such term is known in Scotland.[1] Before the passing of the Education Act of 1872 there were parish schools. These have now become public schools, and the tendency of the Code, in consequence of its system of payment by what are called results, must be to confine the attention of the teacher chiefly to elementary subjects, and such cognate ones as English, domestic economy, and physical geography, which can be taught conveniently in classes; but, in so far as the Code tends to extrude from the public school those higher subjects which lead directly to the university, the Code is going directly in the teeth of the Education Act of 1872, which, in clause 67, provides 'that due care shall be taken by the Scotch Education Department that the standard of education which now exists in the public schools shall not be lowered, and that, as far as

[1] 'There is in Mr. Forster's Act of 1870 no definition of elementary education; nor any direct statement either of the age or of the subjects to which it is meant to extend. The definition given (Section 3) of an elementary school turns upon the fee that may be charged to the scholars.'—*Report of the Committee of Council on Education (England and Wales)*, 1879–80.

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possible, as high a standard shall be maintained in *all schools inspected by the said department.*'

It is most pertinent to ask here, what standard of education did exist in the parish schools? It is the fashion now to say that that standard was in reality a low one. Let me picture what it was—alas! nearly forty years ago—in the parish school in which I was myself partly educated. In one large room were gathered about one hundred children, at various stages of progress, under the care of the teacher, who was a distinguished graduate of the University of Aberdeen. Among these were always five or six who were preparing to go to the university. Their poverty generally required that they should fit themselves to take a bursary. What preparation did this demand? This. They read through the ordinary Latin authors, or such parts of them as are usually prescribed, viz. Cæsar, Ovid, Virgil, Horace, Livy. They wrote Turner's 'Grammatical Exercises,' Mair's 'Introduction,' parts i. and ii. of Arnold's 'Introduction to Latin Prose,' besides writing all the versions prescribed by the famous Melvin, of Aberdeen Grammar School. In Greek they read Xenophon, part of Dalzel's 'Collectanea Graeca Minora,' and, in Mathematics, they did the first five books of Euclid and a part of the sixth, with algebra as far as quadratic equations. Nor did they finally leave school when they went to the university. As regularly as the winter session ended they returned, after a brief holiday, to their old seats beside the master's desk, and there prepared under his eye for the work of the following session. Their attendance at school ceased, in fact, only when they had reached the dignity of A.M. of Aberdeen University.

It will be said that the teacher's attention was chiefly occupied with these. Nothing could be further from the fact. They were the bright boys of the parish, and needed little help from a teacher. When an occasional difficulty occurred, they turned to him. He solved it, and they plodded on their way. Besides, they were ever ready to take a class, and to help the teacher in the general work of the school. And if the teacher at any time fell ill, 'the collegeners,' as the University men were called, made their appearance without any bidding, and quietly carried on the work of the school.

Some may say that the state of things I describe was one called into existence by the beneficent agency of the Dick Bequest. Not so. For special reasons, the teacher did not share in the benefits of that noble fund. The Dick Bequest, in fact, did not create, but most judiciously upheld, an educational state of things previously existing. 'The trustees,'

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says the visitor, Professor Laurie, 'simply made use of customs already recognised, and of forces already in operation. The result of their work was to consolidate these forces, and to direct energies which, under pressure of local necessities, had already set in a certain direction. Without the University of Aberdeen, its system of bursaries and its cheap education, the Bequest could have accomplished comparatively little. There would have been no standard up to which they could have worked, and there would have been no teachers capable of doing the work which has been and still is required of them.'

But the educational benefit was not confined to the few who were taught the higher branches. The learning of these few leavened, as it were, the whole parish with a certain educational and intellectual zeal. All within it followed their career at the university with a loving interest. When they came back, they were invited out by the farmers and the minister, and had to rehearse all their experiences, give an account of the professors, and explain any new methods which had been adopted in the diffusion of the higher knowledge. And, when the Simpson Prize of 70*l.* was gained by Jamie Stewart, there was not a ploughman in the parish but felt as if he had a share in the honour.

But what of the ordinary subjects? I unhesitatingly assert that, for every purpose of education, they were better taught than they are now. And this chiefly because at an early age much greater time was given to reading. The schools at present suffer from over-inspection. Children are inspected in every year of their progress. The ability to spell, which with ordinary instruction will come about the age of twelve, is insisted on at every stage of the child's school career. At the age of eight he must be able to spell without error a book of 64 pages; at the age of nine he must be able to spell a book of 192 pages; and so on. The consequence of this regulation is that the teacher chooses as small a reading-book as possible, and that, whereas in former times at the age of ten the child's ability to read and to comprehend far outran his ability to spell the anomalies of the English language, now the time of the child is wasted in prematurely forcing him to spell every word of as small and as easy a reading-book as the inspector can be induced to accept. I do not here speak of the hardships undergone by the children; but I venture to say that if the public knew the amount of corporal punishment and detention inflicted on children of eight and nine years of age, and even on those in the infant department,

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in order that they may pass the Inspector, a very speedy stop would be put to the present system.

But whether this be so or not, there can be no doubt as to the high standard of education which existed in such schools of Scotland as I have endeavoured to describe; and the Act of 1872 provides not only that this standard 'shall not be lowered,' but 'that, as far as possible, as high a standard shall be maintained *in all schools inspected by the said Department.*'

(2) A word as to the term, Higher Subjects.

By some this term is used to signify those subjects which qualify for entrance to the university; by others it is used to signify subjects more advanced than ordinary reading, writing, and arithmetic, as required in the Sixth Standard. The Code avoids the use of the term, and calls the 10 such subjects of the English Code and the 14 of the Scotch Code by the colourless epithet 'Specific Subjects of Secular Instruction.' It would avoid confusion if the term Higher Subjects were limited to those which qualify for entrance to the university, and there can be no doubt that these were the subjects which the framers of the Act of 1872 had in view when the words were inserted 'that due care shall be taken by the Scotch Education Department that the standard of education which now exists in the public schools shall not be lowered.'

Having made these preliminary observations, I now proceed to answer the question, 'How far and under what conditions ought the teaching of higher subjects in elementary schools to form part of a system of national education?'

The question 'how far' I answer, not only in the spirit of the tradition of Scottish education for more than three hundred years, but according to the very letter of the Act of 1872, that no limit need be fixed save such as the requirements of the university naturally impose.

To the question under 'what conditions' I answer:—

(1) That security be taken that the teacher be qualified to give instruction in the higher subjects on which the Government is willing to examine the pupils of the schools.

(2) That security be taken that those who examine in these subjects be qualified for the duty they undertake.

(3) That adequate encouragement be given to at least one school in every district which maintains the high 'standard of education' formerly existing.

If we turn to the Fourth Schedule of the Code, we find 14 specific subjects placed side by side on equal terms of encouragement, viz. mathematics, English, Latin, Greek,

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German, mechanics, chemistry, animal physiology, light and heat, magnetism and electricity, physical geography, botany, domestic economy. Of these 14 any child from the Fourth, Fifth, and Sixth Standards may be presented in *two*; any pupil who has passed the Sixth Standard, in *three*. The payment for each pass is 4*s.*, so that a child in the Fourth, Fifth, and Sixth Standards may by specific subjects earn for the school 8*s.*; and one who has passed the Sixth Standard, 12*s.* The *maximum* grant that can be earned by standard work in the juvenile department for each child is 19*s.* 6*d.* in the following sums, viz. 4*s.* for attendance, 1*s.* for singing, and 1*s.* 6*d.* for excellent discipline, 2*s.* for intelligence, 2*s.* for history and geography, and 3*s.* for each pass in reading, writing, or arithmetic—in all 19*s.* 6*d.* The child who can take successfully two specific subjects adds to this sum 8*s.*, making in all a possible 27*s.* 6*d.*, attainable by a child in the Fourth, Fifth, or Sixth Standard, while 22*s.* 6*d.* is the *maximum* attainable for a pupil who has passed the Sixth Standard; for while such a pupil may earn 12*s.* by specific subjects, he no longer earns the 9*s.* payable for reading, writing, and arithmetic.

On the face of it, it would seem as if ample encouragement were held out to schools passing their pupils in the specific subjects. And this, no doubt, is true. We must bear, however, constantly in mind that 'specific' subject does not necessarily mean 'higher' subject in the old sense of the term. Schools being to a large extent judged by the amount of the grant they earn, the teacher naturally searches the Fourth Schedule for such subjects as can be most easily taught, and especially for such subjects as can be taught in classes. And, accordingly, we find that the favourite subjects are English, domestic economy, and physical geography. Last year, of 43,396 scholars presented in specific subjects in Scotland, 24,018 were presented in English, 19,071 in domestic economy, 12,102 in physical geography, while only 5,027 were presented in Latin, and 2,138 in mathematics, the number presented in Greek being so insignificant as not to be thought worthy of enumeration in the Report of the Committee of Council.[1] Of those who took Latin, only 586 reached the stage of being able to master the First Book of Cæsar, while in mathematics, only 145 were able to pass in algebra to quadratic equations (*inclusive*), Euclid I., II. and III., and elements of mensuration. And it is to be observed that this is the highest stage of

[1] At page 106 of the Appendix I find that the total number presented in Greek was 251, and that of those 32 had reached the third or 'First Book of the Anabasis' stage.

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attainment for which the Government at present holds out any encouragement. It is true that from such parish or public schools as those of Roslin and Lockerbie, pupils still come up who are able to pass the university entrance examination for the Three Years' Course; but such training is entirely due to the zeal, ability, and self-denial of the teacher, who receives no encouragement whatever from the Government for work like this.

Here the question may be asked of me, 'Would you then excise these comparatively easy subjects from the Fourth Schedule?' I answer, No. More than this, as domestic economy is now imperative on all girls who take specific subjects, I would make a corresponding subject, laws of health and wealth, imperative on boys, and English literature imperative on both boys and girls, as a second subject. English composition has to be taught to those in the Fifth and Sixth Standards. The great difficulty the teacher encounters is that the children never hear at home good English spoken. It is an advantage, then, not only from this but from many points of view, that these children should, year by year, store up in their memory two or three hundred lines of the highest thought and richest expression which our poets afford.

As for the higher or university subjects, no one ought to be encouraged to take them unless he or she have manifestly special gifts for them. The question as to how the teaching of them is to be encouraged I will answer immediately.

Of the three conditions under which the teaching of higher subjects ought to be placed, the first I laid down was that security be taken that the teacher be qualified to give instruction in them.

It may seem strange, yet it is true, that no such security is at present taken by the Government. While a teacher must undergo a regular course of training and pass rigid examinations before he can receive the certificate entitling him to give instruction in reading, writing, and arithmetic, he may, as soon as he receives that certificate, proceed to teach, without further inquiry regarding his qualifications, any or all of the higher subjects contained in the Fourth Schedule. If it be seriously meant that instruction is to be given in Latin, French, chemistry, or any such subject, the first requisite is to see to it that the master or mistress has not only a smattering but a full knowledge of the subject to be taught. No teacher ought to be allowed to present pupils in specific subjects unless he have given evidence by a university degree, or by a special examination, of possessing the knowledge requisite for teaching that subject. The university degree, indeed, covers only

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some of the 14 specific subjects; and a special examination should be required even of graduates who undertake to teach French, German, chemistry, animal physiology, or botany. In marked contrast with the conduct of the Education Department in this respect is that of the Dick Bequest Trustees, who require even those who hold a degree to pass a qualifying examination before admitting them to the benefit of the Trust. '*The schoolmaster is the key of the whole position*,' says their visitor, 'and by directing their attention to his qualifications in the first instance the Trustees anticipated and removed all other difficulties.'

The second condition laid down was that security be taken that those who examine in the higher subjects are qualified for the work they undertake. It may seem strange, yet it is true, that no such security is at present taken by the Education Department. H.M. Inspector is, at present, supposed to be qualified to examine in any or all of the 14 subjects of the Fourth Schedule. He may have been a distinguished Wrangler, and so the presumption may be that most of his time has been given to mathematics; and that even his Latin quantities and Greek accents may be a little shaky; nevertheless, in the language of Scripture, 'all things come alike to all' H.M. Inspectors. Greek, German, chemistry, botany, domestic economy, with its mysteries of washing and cooking, are all supposed to be known by one wonderful man, of whom, in connection with the Fourth Schedule, it may be said, as was said of Whewell, that 'science is his forte, and omniscience his foible.'

The easier or class specific subjects, such as English literature, I would leave in the hands of H.M. Inspectors, to be examined and reported upon at their annual visit. But for the higher subjects I would have an annual examination held throughout the whole country at one time by printed papers, sent out in the same way as is now done by the Science and Art Department. This examination might be held by H.M. Inspectors, to each of whom might be assigned such special subject as he was known to be well acquainted with. Or, as I would prefer, the examination might be held in connection with the Local Examinations, now held by all the four universities of Scotland, the universities being required to report the result to the Education Department. One great advantage of this latter arrangement would be that it would bring the home influence, so to speak, of each university to bear upon all the schools within its own district. The centralising tendency in education is already too strong, and whatever would tend to act as a counterpoise to this influence ought to be welcomed

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by every lover of his country, even if the Departmental working of the machinery were not so smooth as officials might desire.

The third condition laid down was that sufficient encouragement be given to at least one school in each district which maintains 'the standard of education' formerly existing. Last year grants amounting to 328,297*l.* 9*s.* 2*d.* were paid for education in Scotland. Of this sum 10,641*l.* 18*s.* 8*d.* was paid for special subjects. The greater part of this, however, went for the easier or class subjects of English, domestic economy, &c. For Latin, not 1,000*l.* in all was paid; and of this for the third or 'First Book of Cæsar' stage not 100*l.* For French about 400*l.* in all was paid; and of this not 40*l.* for the third or 'easy French Book' stage. For mathematics not 400*l.* was paid; and of this not 30*l.* for the third or 'Third Book of Euclid' stage. For Greek, German, chemistry, &c., the sum paid was so insignificant that it is not thought worth while to give in the Report of the Committee of Council the means of ascertaining what it was.[1]

It will be seen from the above facts that the encouragement given at present by the Education Department to the higher subjects is of a very meagre kind. The fact is that the system of payment for individual passes is quite inapplicable to the teaching of the higher subjects. While it is much to be desired that in every parish or district the two or three who may have the ability should also have the opportunity of the higher learning, those who have not this ability ought in no way to be encouraged to attempt the higher subjects. The question asked ought to be not so much, how many have passed? but, generally, is the teacher maintaining he old standard of education in a satisfactory and worthy manner? If this question be answered in the affirmative by the special examiners in higher subjects—whether these be her Majesty's Inspectors or the Universities—a special grant ought to be made to that school. It has been suggested to me that we have a precedent for such a grant in Article 19D of the Code, which makes a special grant to schools in thinly-peopled districts. If the principle for which I contend be granted, the details will easily be arranged, the experience of the Dick Bequest Trustees being amply sufficient to suggest all that is necessary.

[1] From page 106 of the Appendix to the Report I gather that not 50*l.* in all was paid for Greek; and of this sum not 6*l.* for the third or 'First Book of the Anabasis' stage. For Chemistry not 45*l.* was paid; and of this not 5*l.* for the third stage.

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It has hitherto been generally assumed that such arrangements are only required in country districts. 'High Schools,' says the visitor for the Dick Bequest, 'with bursaries attached to them, will suffice for town children.' I think it a wiser opinion which would make every great school in a town a centre of higher influence in education. The towns have been neglected for a hundred years, and the zeal for education which exists in the country districts requires yet to be created in them. The brighter youths ought not to be drafted off, but left to give a tone to the whole school. That the system of bursaries is not of itself sufficient, is attested by the Rev. Mr. MacCarthy, Head Master of King Edward's Middle School, Birmingham, and a distinguished member of the Birmingham School Board. 'My experience,' says Mr. MacCarthy, 'is that frequently this process of removing a child from an elementary school to a secondary school, simply because he shows a capacity for higher training than the three R.'s, without regard to his adaptability to the conditions of a secondary school and the careers for which the secondary school is a training, is a real blunder.' Mr. MacCarthy concludes his letter by saying: 'He who would exclude secondary subjects from elementary schools is simply robbing the children of their national birthright, which is, I maintain, the right to receive the best instruction suited to their needs, capacities, and future prospects, which can be given them during the years which can be spared from labour.'

A countryman of John Knox could have given no more distinct utterance on the subject than this citizen of Birmingham, where I have met men in high social position who had received no other education than that which they had received in the Sunday school, and who valued it as those only can do who have known what the want of it is.

I have said that the contest between the two parties as to what the education in the elementary school should be is a contest which only will be decided by the logic of events. It is significant, however, of what that decision will be, that democratic Birmingham sounds so clear a note of progress.

On the Same.

By Sir George Campbell, K.C.S.I., D.C.L., M.P.

THIS question comes home very especially to the feelings of Scotchmen, for I think it cannot be disputed that in past days the Scotch system of national education comprised

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a complete course, including what were then considered to be the higher subjects. Our parish schools were not mere elementary schools, but carried promising boys much higher. In those days, in truth, education may be said to have been divided into two stages—the parish and burgh schools—which, beginning at the beginning, took up a considerable portion of what we call secondary education; and the universities, which, coming lower down than is the habit at present, and taking boys at a younger age, received boys and men from the local schools and completed their education. Knowledge is now more varied and extended, and by the common consent of the civilised world it is necessary to divide education into three stages, in elementary schools, secondary schools, and universities or higher professional schools. So far as my experience of my own country goes I should say that in Scotland we are not quite so deficient in the means of secondary education as is sometimes supposed. The burgh schools of Fife are, I think, good, and have turned out excellent men; and the higher departments of most of our burgh schools are, I believe, quite capable of carrying education to the point where the universities take it up. But even in these schools there is a want of the means of teaching the more modern sciences and technical arts. And in the country districts there is undoubtedly a hiatus which did not exist before. Now that elementary education is more universal than ever it was before, and, with an increase of population, our public elementary schools are crowded with scholars, the Education Department have judged—rightly, as I think—that it would not do to encourage masters, charged with the elementary teaching of these masses of scholars, to devote much of their time and attention, as some of them did in former days, to the higher education of a few select boys in subjects which are now somewhat out of date and effete; for to permit this would involve a risk that the thorough teaching of the many might be sacrificed to the advancement of a few.

Still, as I have said, the result certainly is to leave a gap in our system of education as regards these country districts. Young men of promise have not there the same facilities for being highly instructed, or passed on to the universities, that they had before. So far, I feel that there is a real grievance and a real want, and I much sympathise with the patriotic men who have been striving to supply that want in Scotland; though I have not been able to agree with those of them who would get over the difficulty either by re-introducing higher subjects in the elementary schools, or by taking, for the purposes of general higher education in considerable centres, funds dedi-

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cated to the elementary education of the poor in particular localities.

To deal with the subject generally, and not from a Scotch point of view only, I should say that even if the teachers of our elementary schools were capable of teaching thoroughly higher subjects of a modern and useful type, it would not be desirable that they should do so, for the reason which I have already given—the danger that the interests of the many might be sacrificed. As matter of fact, too, the vast majority of our elementary teachers have no great qualifications to teach these higher subjects.

On the other hand, while I would not attempt the complete teaching of higher subjects in these schools, I am quite in favour of the present practice of the Education Department, which encourages teachers to qualify themselves to teach and boys to learn a certain modicum of these higher subjects. It would be very hard that boys who have well mastered the three R's at an early age should be wholly debarred from any further advance during the rest of their school career. I do not pledge myself to the details of the present system, but I quite differ from those who seek to throw ridicule on what is called a *smattering* of knowledge of higher subjects got up to satisfy the requirements of the Department. Certainly I think that a smattering of the classics, as they are usually taught, or I may say of any strange language whatever, is very useless to any boy or man who is to earn his living in his own country or in any of the English-speaking countries; there is enough of knowledge and literature in the English language for the lives of most people. But I do think that a smattering of that knowledge which may enable us better to see and understand the things and the facts of nature around us is in the highest degree useful; both as making a man a more intelligent being, capable of realising and enjoying his own life and the life around him, and as serving to give to those who have a talent and calling for such subjects that taste and sample of them which may lead them onwards when otherwise they would never have made a beginning. In this view I think that a smattering of physical geography, and natural history, and chemistry, and the science of common things, is useful and advantageous in the highest degree. I only wish that we of the older generation had had a smattering of such things in our youth—perhaps many of us would not have gone through life so blindfolded as we have. Of languages beyond our own I would only teach the mere Latin roots, and the process by which so much of our

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language is derived from them; for the rest, I would confine the elementary schools to practical teaching of the natural things and processes around us.

Proposing, then, as I do, to exclude from the elementary schools everything but what is called a *smattering* of higher subjects, and yet desiring to make the more thorough teaching of higher subjects part of our system of national education, perhaps I may be permitted to go on to explain how I would have these subjects taught. That is, in fact, trenching upon the question whether our secondary schools should be part of the general system of national education, and subject to public supervision and inspection. But the two questions run so much into one another that it is hardly possible to keep them apart. The point to be decided is whether in these matters free trade in private hands or a general public system is the best. Now, no doubt in most things in this free country we find that free enterprise answers best; but it is admitted that there are some exceptions. The Post-office and Telegraph are better and more cheaply managed under public officers than if left to unrestricted private competitors; and in Scotland at least we have given the preference to a public system so far as regards our elementary and most of our burgh schools. In almost all other countries, both in Europe and in the United States of America, the same public system has been adopted in regard to the higher instruction. I am not competent to judge fully of the results in the different countries of Europe—we have every reason to suppose that in many of them the system is very successful; and if in France—that country of ultra-officialism and red-tape—it is, perhaps, somewhat stiff and over-uniform, I heard no such complaints in America, where the public higher schools seem to give very general satisfaction, and have produced, as you know, very great results.

For my part I believe that if in this country all places were as energetic and progressive as Edinburgh in regard to education, there might be little need to interfere. There is here, I understand, much very excellent education; but Edinburgh is in this respect exceptional. It is not the same in all places; there are modern 'Dotheboys Halls,' and many private schools for the sons of the gentry and middle classes which are a sham and a delusion. Parents really have no opportunity of judging, and do not know what kind of education their children are getting till the finished article is turned out and found not to be finished in any good sense at all. I must say, then, I much incline to follow the example of other countries, and to bring the secondary education of our children

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under supervision and inspection. I would not shut out private effort subject to this inspection, but I would like to see a more complete system of public schools under the supervision of the local authorities.

As to the means by which this might be attained I fear we can hardly hope that in the present state of public opinion the State Treasury will largely aid secondary schools, as in other countries. Perhaps it is hardly desirable that it should be so. Perhaps it is enough that things should be put on the footing on which they have been put in Scotland by a recent Act, which I had much pleasure in assisting to pass—viz. that while elementary education receives assistance both from the State and from rates, it is permitted to assist secondary education in the higher schools from the rates at the discretion of the ratepayers. This should, it seems to me, suffice for the considerable towns, and they must blame themselves if their burgh schools are starved and inefficient, or deficient in the means of teaching modern sciences and arts. Such schools are for the benefit of all classes; and considering how much the middle and higher classes pay towards the school rates, I think none need grudge that their children also should derive *some* benefit from the rates. I hope that this existing law will be fairly, if carefully and cautiously, acted on in Scotland, and that it will be imitated in England.

There remains, however, this to be said, that though all classes in the burghs will benefit by these schools, they will hardly compensate to the people of the rural districts, who cannot reach them, for the opportunities of higher education in their own parishes which they have lost. Some special provision for the case of the more promising pupils of the rural schools should, I think, be made; and that might be done by the system of bursaries, making steps in the ladder, which has often been suggested—the best children of the parish Board schools being sent into the burgh schools, with these bursaries.

So far as the object and design of the existing educational endowments may fairly be considered to have been to give higher education either to the poor or to any other class, such funds might, I should say, fairly be applied in this way; but I think that we must limit our use of this source, so as not to take from the poor, and that for the rest funds must be found elsewhere. For this limited object of sending forward the best of the poor scholars a Government grant might fairly be claimed, as well as aid from the rates, and so I should hope that the object might be effected.

One great advantage of a system of this kind would be that,

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boys of promise being sent to the secondary schools, it would be possible to insist on a good standard of qualifications before admission to the Scotch universities. Hitherto the want of any test before entrance has caused an extreme inequality among the pupils of many university classes, and has made it necessary, as it were, to degrade the teaching to the level of the lowest. The excuse for this has been that it was a sort of right to come from the parish schools to the university, and that no one could fairly be excluded because his previous opportunities of education had been small. When an intermediate stage is established as part of the national system it will be possible to confine the university work to the highest education of young men already well educated to a certain point, and that is the proper function of modern universities.

Before concluding I would only say one word on the subject of gratuitous education. English people are generally very strong in their own opinions, and it has become a sort of religious tenet with our educational authorities that gratuitous education, in the elementary schools at any rate, is a noxious, wicked, and abominable thing. The upper classes are ready enough to receive gratuitous education in the shape of scholarships and suchlike. But in elementary schools Government aid is absolutely refused to all who dare to give education to the poor without charge; and I think some proposals with regard to existing endowments have been a good deal tinctured with the belief that where these are used to pay fees, or otherwise make education free, they are an evil rather than a good. Now, in this matter, as in most matters, there is much to be said on both sides. It well may be that the English view that it is better to impose fees is the best. I do not deny it. But I do contend that with the experience of other countries, and especially of America, before us; with this fact, that in, I believe, every one of the many States of the American Union, the principle of free education is adhered to, and that the Americans as firmly believe in the success of that system as we believe the opposite; we cannot take on ourselves, without doubt or hesitation, to say that we *must* be right and others MUST be wrong. I cannot see why in the confidence we have in our own system we should, as it were, persecute, visit with pains and penalties in the shape of refusal of the usual grants in aid, or, perhaps, confiscate the property of those who choose to give education free.

Also as regards clothes, &c., we may remember that one of the greatest difficulties in the way of the reclamation of the children who most need reclamation by education is that they

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are not sufficiently clothed and fed to enable them to come decently to school. Any funds which may supply this want are, if well administered, beneficial in the highest degree.

DISCUSSION.

The Rev. Dr. Rigg (Wesleyan Training College, London) said he sympathised with Dr. Robertson's address, and was ready to give it general approval, but still the Paper rather assumed that the Education Department were able to do a good many things that they were not able to do. This was a very suitable, but a very difficult, subject to discuss, and it was possible for many errors to creep in. The Scotch educational question was certainly more complicated than was that of England. The subject was to be approached from two sides—the side of provincial or local need, and the side of national need. The Government dealt with the subject by a system which was of necessity very uniform. It was obliged to administer from one centre, and could not readily adapt itself to local demands, or only to a very limited extent. A certain amount of discretion was left to School Boards; but so long as we had a mechanical national system, with grants from the national Exchequer, we could not have the variety, elasticity, and spontaneousness, nor the proper adaptability to local circumstances, which any true national education system should possess. The proper law of supply and demand should always be acknowledged in such a system; for there was nothing in the world to which the principles of free competition ought to be applied so thoroughly and universally as education, because there was nothing that was so little mechanical. And it was because we were in the midst of this conflict between the interests of the Government on the one hand, and the proper requirements of localities and classes on the other, that we were always at cross purposes. The Government could give logical reasons for their requirements, from their administrative point of view, and yet almost everything they did would be condemned on purely educational principles. Sir George Campbell had rather attempted to throw some doubt upon the applicability of free trade to education. There was nothing that should be so precisely proportional to the demands of the locality as education. In dealing with commercial matters, their mechanical organisation and requirements might be tolerated; but in dealing with all the varieties of class, of actual life and individual capacity, not to be able to graduate and adapt the modes, processes, and requirements of education to wants and circumstances was a great calamity. But we could not have free play, spontaneous life, everywhere in education, and at the same time have grants from the Exchequer. America he had twice visited with the specific purpose of examining the institutions there, and he had paid special attention to the school system. There was there no extensive organisation of what we should regard as secondary or superior schools.

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Primary schools in America did not teach grammar; the grammar schools were so called because they taught English grammar, and, except at Boston, they taught nothing but English, unless it were German, as in Cincinnati, and perhaps a little French. There were no public secondary schools at all across the Atlantic, unless, sometimes, in New England, according to the English conception of what secondary or grammar schools were; except, indeed, what were called High Schools, which were few and far between. It might not be generally known that the secondary schools in Philadelphia excluded all classics. With the vast population in that city, there was only one public school —the High School—which taught classics at all, and that was only attended by 600 children. Therefore little light could be thrown by the condition of things in America, generally. As to the free school system, Dr. Henry Barnard, one of the greatest educationists America had produced, had told him that the system there was a mistake. Free schools in America were a part of the political system; they were the result of political feeling and political influences.

Miss Phœbe Blyth (Edinburgh School Board), referring to the Scotch normal schools, said that at the time when the number of subjects taught in these schools were fewer than they were now, it was reasonable to expect every teacher to be well qualified in every subject taught in the schools. But the pressure now exercised on the normal school students was too heavy. If the students were allowed to make a choice of *special* subjects, after having learnt the *essential* ones, there would be better teachers in their chosen subject. Instead of their being expected to be *qualified* in all the fourteen specific subjects of the Code, they might *excel* in a less number, as, for instance, science and mathematics. Such was the case in past days in the parish schools, which were distinguished, some for high classical attainments, others for mathematics, and others, perhaps, for their excellence in English. The consequence of the present multiplicity of subjects was that the normal students were not so well qualified in their subjects as they used to be or might be. There were examples of schools in Edinburgh which were known for their different qualities, and parents sought out the schools which gave the special kind of education they wanted. She quite agreed with Dr. Robertson that the examiners should be themselves skilled as teachers. With regard to the system of grants, in relation to the teaching of special subjects, she thought the teachers were placed under a great temptation in the present system. In rule, their income and consequently the condition of their families depend upon what each child can be brought to do. The remedy for the evils resulting from the present system of paying teachers would be to give teachers fair, proper salaries, independent of the grant. Up to the present time they had had a class of teachers in Scotland of whom the country might well be proud. They grudged no effort to encourage or bring on a capable and diligent student or pupil. What a new generation of teachers might prove under the present system she looked to with considerable anxiety. It would be found difficult to keep up the high moral tone which had hitherto distinguished the teachers, so long as the existing system of payment

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was continued. Teachers ought to be allowed greater freedom of action in instructing or withholding children for special subjects, and the parents ought to pay some small extra fee for such subjects. This would prevent a number of children from entering for special subjects for no reason, and without the intention of making any progress in them afterwards. Teachers should not be tempted to bring children under a certain curriculum, when their knowledge of it would be so extremely small as to be of no use. It was impossible to have both the university subjects and the ordinary subjects properly taught under the present limitations of teaching power, as regulated by the Department in London. This affected the action of School Boards, in so far as they might be ready to provide more teaching power in order to secure efficient teaching in all directions; but here they were met and opposed by the ratepayers, whose aim was chiefly to keep down the rates. The sense of responsibility on the part of parents needed development. Parents who wished to benefit their children with an education not merely elementary ought to make some personal effort to obtain it, and not to have it gratuitously bestowed upon them, whether or not it were desired, as is sometimes now done, to obtain a high Government grant.

The Rev. ALEXANDER WEBSTER (Edinburgh) agreed with Miss Blyth that the system of paying teachers by results, although certain things could be said for it, possessed too many counterbalancing disadvantages to be received with much favour. Applied generally, the system proved, in many cases, an entirely fallacious test, either of a teacher's success or of the progress of the pupils. He agreed with Dr. Robertson's disapproval of one form of abuse, which was the infliction of corporal punishment as a means of spurring on the pupils, in order to increase the teacher's professional gains. Even in his own recollection the system of school flogging had been carried on with nothing else than brutality, although there was now a great change in that respect. Nothing could have a worse effect upon the children than a system of terrorism.

Mr. T. E. HELLER (Member of the London School Board) said that Sir George Campbell had approached this question almost entirely from the Scotch point of view, but it affected the efficiency of the schools and the social life of the people in both countries. The position he adopted in reference to these so-called higher subjects would be that, taking into consideration the period of school life and the number of years available for the childen in their primary schools, we ought to lay down this one principle: that anything of service which could be taught the children within that period should be taught in the best possible way. The fears which Lord Sandon had lately expressed were not likely to be realised while the period of school life was so short and the attendances so irregular as they were now. During the discussion two distinct meanings had been given of 'higher subjects.' Dr. Robertson's remarks had reference to the old subjects taught in Scotland before the passing of the Education Act of 1872; and other speakers, like Sir George Campbell, had referred to the introduction of new subjects coming into the curriculum during later years. The

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purpose of elementary schools was not mainly to provide special preparation for the university. There was a danger in Scotland of supposing that the function of elementary schools was necessarily to give a special qualification which would secure an entrance into the university. The beginning, certainly, of that education should be in the elementary schools; but it would be perfectly impossible, in any national system, to send children direct from the elementary schools to the university. This could only be done by overloading the elementary schools, or by degrading the entrance into the universities. He wanted to see a proper preparation begun in the elementary school rendered available for the few who showed special capacity for going on to higher work, and then that there should be the intermediate stage where the full preparation for the university should be carried out. Some of the speakers had seemed to imagine that the whole of the fourteen special subjects of Schedule 4 were taught; but certain selections were made, and the actual amount of higher instruction given was less than many persons supposed. The object of these higher subjects was not to supply special instruction to certain children for their after duties in life. That ought not to be contemplated in primary schools. To teach children certain branches of learning suited to particular professions was out of place in such schools. They should receive an elementary education, with a future power of dealing with subjects for themselves. He had no hesitation in saying that an immense influence upon scientific research on the other side of the border, was now being conducted by pupils who had gained their first elements of knowledge in the elementary schools of the country. He therefore did not agree with those speakers who thought that science was taught without effect. It was taught with considerable effect and in such a way as to lead many on to a very advanced study of science. It might be done in a better way, he admitted. That the regulations of South Kensington were perfect he was prepared to deny, but at present they could not hope to get the best results. To sum up: there should be in primary schools the liberty, where there was the ability, to teach all subjects possible to be taught within the limit of school age and attendance. When that had been done, there should be a means of secondary education afforded to those who had distinguished themselves in elementary schools, and to those who looked forward to higher work in the universities. Half the failures in the examination of higher subjects were attributable to the fact that the inspectors were often not qualified to conduct the examination. That fact had been recognised by a committee of the British Association at their last meeting, and that opinion was so strongly expressed, that if it had emanated from a body of teachers, it would have been thought to have been prompted by professional motives rather than by zeal for the public good. He hoped the congress would pass some resolution asking that in primary schools these higher subjects should be so far encouraged as the limit of school life would permit them to be effectively taught.

Professor STRUTHERS (Aberdeen University) said there had been too little reference in the discussion to the great improvement which

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had taken place in Scotland in consequence of the passing of Lord Young's Act of 1872. There had been too much hankering after what had been called the 'excellent old parochial system.' He could not see any excellence in it for some time back, and did not believe in 'good old times,' either in education or anything else. There were, in the locality he came from, two schools which had been very much under the clergy. Both schools had been thinly attended, and the teaching therein bad. There was great inefficiency and great laziness under the old parochial system. It is quite different now. Both of the schools are actively taught and both are filled to the door, and the wonder was where all the children had so suddenly come from. They were fond of speaking about John Knox and what he had done for Scotland. He had a great respect for John Knox and for what he had done for Scotland in his day, but in his opinion Lord Young's Act had done as much good to education in Scotland as John Knox had done in the olden time. And were the so-called 'higher subjects' really 'higher'? Was it a higher aim for a schoolmaster to devote his life to teaching Latin and Greek than to teaching the elementary subjects? They should not use the word 'higher' in the way they did; it led schoolmasters to believe they were inferior men if they did not teach the 'higher' subjects. The most important of all changes which had come over Scotland was the teaching the children to read well. To be taught to read easily, so that it was a pleasure to read, and, at the same time, to inspire a taste for reading, was the best part of education. If they carried out this principle, they put into the hands of children the great instrument of education—not by Latin and Greek, but by using their own language in studying that history and literature which the English language furnished. Whilst he agreed with much that had been said of the stimulus given by the Dick and Milne Bequests, and in regard to the system of education they fostered, that system had its weak points. They had recently got a new inspector in the north-east of Scotland, who had adopted a very careful system in examining the school. His report had been received very unfavourably among the teachers. Mr. Hall (the inspector) had found out what he (Professor Struthers), as an outsider, would have supposed to be the weak points of merely university graduate teachers. Their deficiency was that which the normal schools supplied, viz. in English and elementary subjects, and thoroughness of method, or the art of teaching. In fact Mr. Hall had remarked in one part of his report that the only subject which was well taught was Latin. It was said to be the poor man's question that the poor clever boy should be pushed forward, but was it not still more the poor man's question that the education of the nineteen out of every twenty should not be neglected? The elementary teachers were hard-worked men and women, who if they did their duty to the elementary subjects could not do much in teaching these so-called higher subjects. But their friends, the clergy, might take the matter up. The clergy were a numerous body in Scotland, well qualified in Latin, Greek, and mathematics; and when a teacher certified to them that he had some half-dozen clever boys, the clergy might form a class and divide the

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work of teaching these boys Latin, Greek, and mathematics between them. In that way in the remote districts the work of elementary education might be thoroughly done by the schoolmaster, and the clever boys at the same time helped forward.

Professor S. S. LAURIE (Training College, Edinburgh) did not think the two schools which Professor Struthers had referred to were fair specimens of the old parochial system. Professor Struthers had also fallen into a slight error in attributing the condition of those schools to the want of competition. He knew the cases, and there were two schools side by side. It was to the interest of the masters to have as many children as they could, for the sake of the fees. He did not disagree with Professor Struthers's remarks to the effect that many people wrongly placed the teaching of higher subjects above the ordinary elementary instruction. This elementary work was, no doubt, far higher, more delicate, and more difficult, than the other. But the question they were discussing was how to encourage advanced instruction in elementary schools. There was no need to narrow the subject down to the encouragement of 'higher' subjects, for that word had in Scotland, as Mr. Heller had pointed out, also a conventional significance; Latin, mathematics, and Greek, or the 'university subjects.' The question, then, was how to encourage advanced instruction in elementary schools, and whether they were to recognise no education given in such schools to children above thirteen years of age, or who had passed the Sixth Standard. That was really the question at issue. There was, surely, no one in this Association who would wish to see the State draw a very hard line of demarcation, and say: 'We shall recognise no education after thirteen years of age, and no instruction after the passing of the Sixth Standard.' All who really took an interest in the education of the people were agreed that the State should, so far from interposing any obstacle, do all it could to give children, of whatever class, as much education as possible, and keep them as long as possible under the disciplinary influences of school. This being done, the question regarding the subjects to be taught in the more advanced stages was a secondary question altogether. It was to the welfare of the State, in this competitive age, and indeed absolutely necessary to an empire like Great Britain, that the finer spirits in the elementary schools should be educated for the higher kind of activity and fitted for those occupations which required brain power. We could not afford to lose this brain power in hedging and ditching. Great Britain certainly could not afford to waste it. The system in Scotland with regard to individual boys had also had wholesome social effects. He did not think the Liberalism of Scotland was likely to degenerate into anything like Radicalism or Socialism, simply because of the generally democratic spirit of its educational system in the past. What, then, did the advanced instruction to be recognised by the State consist of? Why, those subjects which the *mass* of the scholars could continue to study. This instruction must benefit the *mass* of those who were to continue being educated from the ages of thirteen to sixteen—not merely one or two destined for professions. They would not differ much on this point, he presumed. But why was it sought

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by certain persons to exclude any particular subject? Why had some speakers talked of excluding Latin and mathematics? It was an example of bigotry on the part of scientific men to wish to exclude any educative subject whatever. If Latin was a subject which the Scotch wanted, why not let them have it, seeing that it was the pathway to almost every profession? If the English preferred electricity and magnetism, let them have them. Latin was the pathway to Dr. Struthers's own profession, to the civil service, to law, and even the military and naval services. There was no profession in existence which did not require Latin as one of the conditions of entry into it. He had seen boys working away at Latin and Greek in the parochial schools, to prepare for medical examinations in Aberdeen. He did not wish here to discuss the educational advantages of Latin, but he would merely take the lower ground, and maintain that Latin and mathematics, together, were the only means whereby a boy could gain for himself advancement in any profession, or in any of the services of the State. Therefore, it was a mockery to say to these boys: 'We will give you a means of advancement in life,' and deny them the means of succeeding. The spread of education naturally caused a desire for advanced education, according to the needs and capacities of the children. There was no reason to suppose that the present Department, presided over as it was by Earl Spencer and Mr. Mundella, would neglect the special subjects. Both the President and the Vice-President of the Council agreed that it was the duty of the State to provide higher instruction, not only thoroughly, but generously. The elementary teachers, it was said, could not teach the elementary subjects and also preside over the advanced classes. But this was all a question of the training of teachers and of the teaching staff. It was for the head master, if provided with an extra pupil teacher or assistant teacher, to devote his energies to general supervision, and to carrying the education further than it was usually carried, as far, indeed, as the children's individual capacities and length of attendance at school would allow. He quite agreed with Dr. Rigg's remarks as to recognising local peculiarities and districts in the regulation of education. It was on this principle that the Scotch considered that they were entitled to control and manage their own education. It was a disgrace and a discredit to Scotland that it should be the only part of the empire which was not allowed to manage its own education. The Government, however, thought differently. They would yet have to come to make large concessions to the Scottish feeling in respect of advanced instruction, the preparation of teachers in a liberal sense, and the mode of examining schools, or they would have to concede native supervision if not control.

Miss Flora Clift Stevenson (Edinburgh) remarked that theoretically the teaching of higher subjects in elementary schools had an elevating influence on the whole school, and in those schools where the higher standards flourished the ordinary standard work had been most efficiently carried out. But she believed it had been done at an immense sacrifice on the part of the teachers. It had always been a most difficult thing to arrive at any accurate conclusion as to whether

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or not Lord Young's Act had favoured the teaching of the so-called higher subjects. Statistics were so conflicting on both sides. One reason was that the great increase of those subjects included in the Fourth Schedule was misleading. Subjects were called 'higher' which were not really so, and she believed that if we could increase the range of what was taught in the Sixth Standard it would be a great advantage. For instance, English literature was simply advanced grammar, and physical geography was simply that which should be taught in every geography class. She was strongly of opinion that inspectors should be conversant with the subjects on which they examined. On girls' subjects, such as sewing and domestic economy, inspectors had often just enough knowledge to enable them to ask questions, but not enough to know whether they were correctly answered. Girls were under a great disadvantage with regard to what was called 'domestic economy.' It was certainly a very useful subject if the girls really learned domestic economy. The Department ought to appoint some really competent persons to examine girls in domestic economy. The present plan was a great hardship on teachers, whose object was apt to be, not to teach the subject efficiently, but to satisfy the somewhat inaccurate requirements of the Government inspectors.

Mr. J. R. Langler (Vice-President of the National Union of Elementary Teachers, London) agreed with Dr. Struthers that among the 'higher subjects' of instruction in this country might be emphatically included the thorough teaching of the English language. Children should not only be able to read aloud, but be so trained as to take a delight in reading silently. Variety in the subjects of reading-lessons would tend to this end. An advanced instruction would include, not only Saxon, Latin, and Greek prefixes and suffixes, but also their application, and some knowledge of the Latin and Greek languages would be advantageous to enable pupils to study scientific works. These children were to be the men and women of the nation of the future, and should have the means placed within their reach of obtaining an education which would enable them not only to earn their living, but to make advances in the several arts, and some of them at least to conduct scientific investigations. He had lately visited Brussels, at the International Educational Congress, and found the people revolting altogether against the old idea of education, and beginning to start on a new and bold basis, employing the best appliances and the most advanced methods. He objected to Art. 19, c. 1, of the Code, with reference to the teaching of subjects through reading-lessons. This did not yet apply to Scotland. The fourteen subjects referred to by Miss Blyth required in the normal schools did not certainly apply to England, where only two could be taught. If they adopted Dr. Struthers's suggestion in England, as to the clergy teaching the extra subjects, they would require increased staffs. He agreed that sometimes the inspectors were incompetent to examine in *every* subject. It might thus happen that in particular districts teachers would be guided as to their choice of subjects by the known preferences of the inspector—*e.g.* botany, economy, natural history, &c., and not according to their suitability or congeniality. Under this Art. 19, c. 1, the individualities of inspectors might in time

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come to be of more importance than the needs of the children. Though these gentlemen were very considerate, and, indeed, were cautioned not to *prescribe* the 'class subjects,' it was well known that everywhere the character of the instruction given in schools was largely determined by the character of the examinations anticipated.

The Rev. Brooke Lambert (Greenwich) said it had been forgotten in this debate that the aim of teaching specific subjects, such as Latin or mathematics, in the elementary schools, had not reference to any future positions the children might fill; the object was to cultivate their minds. It was easy to confound education with instruction. This had been insisted on, over and over again, by practical educationalists, when referring to the subjects which were a part of national instruction. There were, no doubt, difficulties connected with the present centralised system; but it was our duty to find out the best subjects to educate individual scholars, whether it be Latin, mathematics, chemistry, or physiology, and to prepare them for their future manhood, not for any special walk in life.

Mr. Rowland Hamilton (Hon. Secretary of the Department) said there was sure to be some difficulty in this discussion, whilst the term 'higher subjects' had a different signification in Scotland from that which it had in England. In Scotland the meaning was instruction directly in preparation for the universities. The proposal to teach higher subjects in England had more special reference to the range of instruction in elementary schools. Children could not be taught to read thoroughly without giving them some intelligent interest in the subjects about which they were to read. There was a close union between elementary teaching and the teaching of higher subjects. He cordially agreed with Professor Laurie that this was a poor man's question, but demurred to his remark that an extra pupil teacher or assistant would generally be an adequate provision for the lower classes of a school, for this was far too inadequate a recognition of the importance of primary education. One great object should not be attained at the expense of the other. Both were required. We had been accustomed in England to look up to the Scotch system, as combining elementary and higher instruction in a more efficient manner than had hitherto been attained in England, and he trusted that they would continue to set a bright example by the thoroughness of their work in all its branches.

The President (Lord Balfour of Burleigh), in summing up the discussion, said the speakers had travelled over a wide field, which had been caused by the readers of the two Papers treating the subject from different standpoints. He thought that one remark of Dr. Rigg went very near the truth, and went far to settle the whole question. That was, that the attainments of the schoolmaster constituted really the whole key to the position; he must be a man of culture and learning, or his teaching would not secure the best results. The other side of the question had been treated very ably by Sir George Campbell, who considered that now-a-days the old system in Scotland was quite out of date, but who admitted that a hiatus existed between the highest point the elementary schools could go to and the lowest point to which the universities ought to condescend. He was glad to hear that admis-

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sion, and they were not so very far off an agreement on that point. Sir George Campbell did not agree with the introduction of higher subjects into elementary schools, or the diverting of endowments to secondary instruction in those schools. None of the various plans for bridging over the hiatus named would succeed alone. A difficulty would be found in looking after the country districts; the larger towns could look after themselves. As he had stated in his address to the congress that morning, the education should so overlap that the capacities of the children might be developed. Miss Blyth, in arguing that the teachers' salaries should be independent of the grant, seemed to forget that if the salaries seemed to come too much out of the rates, and not enough out of the grants, the ratepayers would be discontented, and that therefore it was desirable to keep the connection between grant and salary. He thought they were nearly all agreed on this point, that some kind of special, or higher, or specific, or university subjects, or whatever they chose to call them, must be taught in elementary schools. The question was, what were the subjects to be? They must be those which could best develop the mental capabilities of the children; we must choose those subjects which had the greatest educational value. He agreed with one speaker, who had said it was impossible to attempt to fit children for their future individual lives. If they were going to take up special professions, they must be educated for those special professions afterwards. The children's intelligence ought to be brought out, and they ought to be taught to think and study for themselves. Perhaps mathematics was the best study to bring out the capabilities of the mind. Mathematics differed from Latin in this respect, that a little mathematics was of use to a child, and this did not apply to Latin. He was very much struck by the remarks of Dr. Rigg in regard to the sums of money paid by the Department for special subjects. Very little, comparatively, was paid, whilst many of the subjects were of considerable educational valne. The gross sum paid for these subjects by the Department was very small, and, by the force of circumstances, the university subjects were placed under very great disadvantages by the regulations under which they were now taught. This subject was one which had been referred to a Commission, of which he had the honour to be a member, and which would present a report regarding Scotland to Parliament in the next session. It would be neither fair to himself nor to his colleagues, nor to the report when it came out, for him to indicate the conclusions which they were likely to arrive at. But the report would not enter so much into the subject they had been discussing, for it would deal with the subjects which were to be taught rather than the means to be adopted for teaching them. They had had a good discussion, with valuable suggestions, and they had obeyed the injunction of their President, Lord Reay, not to enter into ideal, but to keep to practical, matters.

Dr. Robertson, in reply, said that one or two members who had spoken were mistaken in supposing that he disparaged the teaching of science. He had only shown that, according to statistics, science was comparatively little taken into account at the present time. There

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had been a living connection in Scotland for three hundred years between their parish schools and the university. He wished that connection to be kept up. They did not wish Latin especially, but chemistry, and other subjects, to be taught. His desire was that there should be a living connection maintained between the teaching of these higher subjects and the parish schools and the university.

PUBLIC SECONDARY SCHOOLS.

Is it desirable that Public Secondary Schools should be placed under Local Authorities, and be subject to the Supervision of the Committee of Privy Council on Education? By Professor S. S. LAURIE, M.A.

THE question which, on the invitation of the Council, I venture briefly to treat is substantially this: What is the best Governing Body for High Schools? It seems to be assumed by the form of the question, as given in the preliminary programme of this meeting of the Association, that there ought to be both local and centralised administration working together; and this assumption I am willing to accept in a country like our own, where the citizens as a whole are sufficiently enlightened to govern, or at least to share in government. The question accordingly resolves itself into one as to the nature and limits of the local and central authorities respectively.

But this question cannot even be approached until we have settled the work which the authorities we propose to set up have to do. To enter into the details of their duties would be here out of place, and I accordingly content myself with the merely general statement that they have to fix, guide, and control the education of youth between the age of eleven and seventeen, and to settle any questions of internal discipline that may be forced before their notice. I limit myself to seventeen, because I am convinced that, both in Scotland and England, boys will best prosecute their education after this age at the universities—the arguments in support of this opinion being here omitted. But this is not all; the governing bodies have to fix the qualifications and remuneration of teachers, to select teachers, and to govern teachers.

In the first section of their duties it would be unreasonable to expect in governing bodies technical knowledge. In all questions of a technical kind the head master is to be supreme, aided by the special knowledge of the under masters, each in his own department. But we are entitled to expect in the governing body a clear conception of the aim of the school instruction

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and of the relative value of studies. It is essential, therefore, that the governing bodies should be composed of intelligent and educated men, and that they should belong to the class in society which they are educating; also that they be fairly well-informed in the subject of education, and not wholly ignorant of the machinery whereby contemporary nations attain similar ends. In the second section of their duties, qualities of a higher kind are needed. There can be no doubt of this, that the education of youths of the middle and upper classes (and these classes chiefly occupy High Schools) can be adequately conducted only by masters who are not merely thoroughly qualified each in his own department, but who are also, in respect of general cultivation and personal bearing, on a level with the parents of the boys they are instructing. The intellectual influence of teachers *largely* depends on this; the moral influence *wholly* depends on it. Great learning and native capacity will make up to some extent, doubtless, for personal defects, but only to some extent. The governing bodies, accordingly, ought to be so constituted as to put it beyond all question that scholars of ability and learning, who at the same time are men of a good social standing, or who by education have raised themselves to a position of social equality with the parents of their pupils, will feel that their interests are safe, and that their independence and self-respect will be respected. No man is fitted to be a teacher in a High School, still less in a university, by virtue alone of his attainment in a particular branch of knowledge. The poorer classes of the community are, in this respect, fortunate; for the great mass of the pupils of the primary schools are below the social class from whom the teachers are drawn, while none are above the social position which the teacher has legitimately gained for himself. In High Schools, on the other hand, it is only a small percentage of the teachers who stand in a similar relation to their pupils—a fact much to be deplored. It may be otherwise in the great public schools of England; but this exception supports my argument, for in these schools the social position and personal dignity of schoolmasters have been in the hands of gentlemen, while the emoluments have generally been such as to attract men of the middle and cultivated class.

Having indicated, in general terms, the function of local governing bodies, the question now is, How are we to get bodies qualified for the discharge of this function?

The High School of a county town, let me first say, exists, not for the town alone, but for the county. The county accordingly should be rated for its support in so far as it may be supported by rates, the rural districts, however, paying only

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a modified rate as compared with the town for whose benefit the school mainly exists. That where there is a general rate there should be general representation—is a settled conviction of the British mind. This general doctrine, it seems to me, has in all cases to be modified by the purpose for which a rate is taken up. In the matter of secondary education, what we have to secure is men competent to discharge the kind of administrative duty with respect to education which has been already briefly sketched above. Boards elected by the general body of ratepayers are incompetent for the task—incompetent, if we look merely to the standing and efficiency of the schools and the due protection of the masters. But there is more than this to be considered. All men, who really understand what they are talking about, desire to see the body of masters in each town or district constituting themselves a kind of College, and directly influencing the whole locality by their example of a learned and cultured life. This kind of influence is only second in importance to that of teaching the schools.

An adequate conception of the position and function of the High School and its collegiate body of masters is manifestly quite beyond boards elected by the 4*l.* householder. Nay, more, I hold that boards so elected are incompetent even to control the parochial or primary school wherever it assumes, as it does in Scotland, a quasi-secondary character and becomes a higher primary school. The rural boards, I repeat, are unfit to govern these schools; and this chiefly because the members are brought into such direct relations with the lower class of ratepayer that they must very often be guided by their views. These are contracted in the extreme—necessarily and inevitably contracted, and illiberal. To save a few pounds to the parish to-day, they will sacrifice what would yield to the State, in the sphere of civic action, thousands in the long day. If this be so in the case of higher primary schools, what can we expect in the case of High Schools? Are the poorer classes to govern the education of the middle and upper classes simply because they pay an infinitesimal portion of the rate which may go to upper schools? Is ignorance to legislate for knowledge? Doubtless the boards elected by *large* burghs will be generally composed of more educated and larger-minded men than rural boards contain; but as they are elected mainly in the interest of primary schools and of the great mass of the population, they are vitiated in their constitution from the beginning. I know such a board, which debated for several successive meetings whether it should pay for certain absolutely necessary apparatus. They were afraid to add a few pounds to

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the rates (which, by-the-bye, had given nothing to the High School), because their poorer constituents, who wrongly thought that they had no immediate interest in the High School, might possibly object, although these poorer constituents have their own schools maintained chiefly by the money of the lower and upper middle classes. The rate for High Schools, it is true, might be taken up only from householders who paid more than 12*l.* of rent, but there are serious difficulties in the way of making such distinctions in rating for particular purposes; and besides, it would be a most unwholesome procedure, because it tends to separate classes and class interests, and to restrict and degrade a citizen's notions of the community of national interests which it is desirable to foster in each and all. It is not in the interest of the middle or upper classes alone that we have High Schools or Universities, but in the interest of all classes. The nation needs trained intellects and minds for the public service, and devoted to literature, science and philosophy; and this for the sake of the nation, not for the sake of a class. At the same time, I object to governing bodies constituted by the votes of all the ratepayers, for the very good reason that they would defeat the end the State has in view in promoting the higher education. It seems to be a mere political superstition to hold that ratepaying should in all cases involve *direct* representation. If the simple consideration of ratepaying is to determine the constitution of a representative body, then it surely follows logically that the representation should be regulated by the amount paid by each—that is to say, if the income of a High School in a large city is 10,000*l.* a year from fees, endowments, and rates, and the proportion of this contributed by householders rented at less than 10*l.* is one-twentieth, their representation on the governing body should be only one-twentieth. To this arrangement no one would object; but as it is doubtless an impracticable one, the same end must be attained in some other way.

It might be said that my argument against direct rate-paying representation leads directly to the placing of the whole higher education under a centralised State authority, as the only way of securing at once representation and competent government. This, however, would involve us in a serious evil of another kind, to which reference will be made in the sequel. Moreover, I thoroughly respect the popular element so long as it is not the plebeian element. It is of great value, and we cannot afford to dispense with it. Had the English public schools been under the influence, even partially, of any popular authority in past generations, the minds of those constituting that authority

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would have been from time to time exercised on general questions of education, and their action would have evoked a response in the general community which would have so effectually directed attention to the intellectual blunders and moral evils connected with the whole system, that we should have been where we are now a century sooner. Still-existing evils, such as that, for example, of allowing the masters to be practically hotel-keepers and provision contractors, would be blown away by popular breath. The breath of the 'people' where they have reached a certain level of intelligence is always healthy, but the breath of the lowest stratum of voters[1] is, in matters outside their range, pernicious. Parents should take an interest in the education of their children, and should have a proper channel for expressing that interest in a collective way—that is to say, through governing bodies; while personal and individual interference should be discouraged. Again, education in the larger sense is promoted if we engage in its service the thoughts of the people. It ought not to be restricted to schoolmasters. This public interest reacts on family life, and helps to give to education its due importance in the State. I do not think it can attain its due importance in the thoughts of men and in the State if it be left in the hands of a centralised bureau, even if the result of the action of the bureau were to be a theoretically perfect scholastic system. It is better to have some deficiencies and many variations, if at this price we engage the mind and heart of the country in the work. Indeed, education in the broader sense is not attained for the community until it begins to occupy the thought of individual citizens as at once a private and a public concern. Interest in the education of youth, educates the adult himself Accordingly, I would place all High Schools in a county under a committee or board, elected jointly by the existing burgh boards to the extent of one-half, the other half of the board being elected by the county boards when these are constituted, and by one or other of the Universities since High Schools are to a large extent preparatory schools for the Universities; and under High Schools I would include, by way of supervision, if not control, all endowed educational institutions,

[1] In this paper, as it originally stood, I used the word *plebs*; here I was taken to task in many quarters for employing so contemptuous an expression. I should have thought that the context, as well as the meaning of the word *plebs* as opposed to *populus*, would have been sufficient to show that I was simply naming a specific class of voter. Had I wished to convey contempt, I should not have used the term *plebs*, but would have borrowed, for the nonce, the now classical expression of an eminent orator—*residuum*.

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simply leaving the charitable part of the administration of these under the trustees appointed by the testator (or such modifications of the Trust body as might be absolutely essential). Such a board would be a strong one and able to resist over-centralisation.

Let us next consider the relation of High Schools to the State; that is to say, to the centralised administration to which we commonly apply the term 'State.'

Why should there be a centralised administration at all? In very many matters of national concern, and especially in postal, military, and foreign affairs, centralisation is by common consent essential. But it is certainly not desirable that centralisation should in any department of social administration be pushed further than may be absolutely necessary. In the opinion of many thoughtful politicians it is even now overdone, and the current of political action ought rather now to run in the direction of decentralisation. For myself, I hold very decidedly to this political view even in matters of ordinary material concern. Whatever can be administered locally should be administered locally, if we are to preserve the spontaneity, independence, and vigour of the citizens, and widen their daily life beyond the narrow business of the shop and the domestic kitchen. If decentralisation be desirable in the administration of merely material concerns—how much more in matters that affect the thought and moral life of a community! In truth, thought and moral life exist only in so far as they are local, individual, free, and spontaneous. Adaptation of a man's opinions and acts to the thought of others, and obedience to the precepts of others, are doubtless acts of intelligence, and suit perhaps the majority of mankind; but the true life and progress of a great community are wrapt up in the individuality and free mental activity of the citizens. It is dangerous, then, to allow the education of a country to fall wholly into the hands of a central bureau. It gives the workers of the State machinery too much power. With a stroke of the pen they can alter the curriculum of education; by their dominating supervision they can crush out all spontaneous activity, and, with this, all true life. Bureaucracy is as opposed to the genius of the British race as is absolutism. A bureaucrat is almost of necessity a doctrinaire. Official minds are apt, with a view to simplicity in administration, to ignore provincial feelings, habits, and peculiarities, oblivious of the fact that difference is essential to vitality. A dead level of uniformity must inevitably have charms for the bureaucratic eye. It makes things easy and simple. At pre-

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sent, in the case of primary instruction, the local authorities (so-called) are merely, in my opinion, channels for conveying the stream of power which has its source in Whitehall. The liberty of School Boards is the liberty to acquiesce. This is not wholesome for the country, and it is depressing to the teacher, who, if he be worthy of his vocation, is less of a machine than the members of most professions. If the teacher is to succeed, he must work with the energy that comes from freedom and from a consciousness that he is at liberty to initiate as well as to execute. Centralisation, by subduing individuality, stifles originality and paralyses the will. A system of High Schools, all uniform and subject to one central authority in London, would, in my opinion, be far more dangerous to our educational well-being than the control of the humblest class of ratepayers could possibly be.

At the same time we must not lose sight of the fact that without some controlling power, the organisation of a High School system and the maintenance of that organisation are impracticable. Educational information has to be collected. Money also is wanted from Imperial taxation to subsidise local rating, and with the giving of money comes a certain control. But it is not necessary that much money should be given by the State, and still less is it necessary that there should be much control with a view to see that the money is well spent. Supervision, not government, is all that is needed, and all that the contribution of the State would justify. All that the State has to see to is, that proper provision is made for the preparation of teachers for High Schools, that annual reports from all the High School governing bodies are, along with the educational statistics of the year, laid before Parliament. From time to time, once in four or five years, it might examine the schools. It might further specify the examinations for testing boys when leaving for the Universities, and perhaps at other periods of the curriculum. Such should be the limits of the State interference, and they should be defined by statute; all else, I think, should be in the hands of the local county authorities.

To the question, Should the present Education Department be the controlling State authority? I answer No; so long as it retains its present form. As a department, it is efficient; in some respects, perhaps, too efficient. A minister of public instruction advised by a Council consisting more or less of paid experts sitting from week to week, but not changing with the Government of the day, would constitute, I think, a safe administrative body. Control by the Education Department, as at present constituted, is substantially control by secretaries

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and clerks, and must always be so. This we all know means that some one assistant secretary—a man it *may be* of small capacity and slight interest in education, and, it *must be* of an official, nay of an office habit of mind, and with a soul dry and parched with the dust of filed documents—governs boards and masters who know their business better than he does. Such men are notoriously impervious to all ideas, and, like all Philistines, have a self-complacent way of mistaking their own imperviousness for sound practical common sense. It is only a powerful mind that can resist successfully the insidious encroachments of routine and precedent. Such minds there are, doubtless; but we cannot trust to this.

My answer then to the question in the programme is—

First, that High Schools should be under popular control, but that the controlling body should be so constituted as to guard against ignorance and illiberality of view.

Secondly, that as all organised educational machinery exists not for the individual, but for the State, State supervision should be exercised with a view to maintain a high standard and the general carrying out of the law; but that this supervision should be so strictly defined *by statute* in respect of its objects as to protect education from the evil of centralisation and despotism, and that the supervising body should be a Minister of public instruction advised by an educational council consisting of experts partly paid.

I would add that, with a view to check the evils of centralisation, the advising or supervising councils should be national, not imperial; that is to say, English, Irish, Scotch, Colonial. To this extent, at least, we should be all Home Rulers. At the present moment Ireland, England, the Isle of Man, and the Colonies have all national centralisation, not imperial. The educational council of supervision for Scotland should be Scottish, and in Scotland, and have the charge under the Minister of Instruction of all Scotch educational institutions, except the Universities. Why Scotland should be the only part of the empire held to be incompetent to manage its own education I cannot understand. That such things should be is discreditable to the Scottish members of Parliament, for, were they united, the just claims of Scotland would be conceded.

DISCUSSION.

The Rev. Dr. Rigg (Wesleyan Training College, London), in opening the discussion, said that Professor Laurie's views had been put

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forth very forcibly in the Paper, but the Paper had been very suggestive of difficulties in the way of carrying out the desires of the writer. If there were to be secondary schools supported by rates, then he (Dr. Rigg) would be obliged to acquiesce in most of the guards and inferences contained in the Paper. But he could not help thinking that the inferences went very far towards constituting the *reductio ad absurdum* of the principle assumed throughout, which was that the State should, somehow or other, provide the apparatus of secondary schools for the nation. He did not know whether in Scotland he would be considered heretical on this head. Professor Laurie had spoken of the High School as a school in a county. He should very much question whether there was any natural relationship in many instances between a county town or any town that might be named in the county, and the county itself, for educational purposes. It seemed to him that the county did not necessarily or ordinarily constitute an educational unit. If they were to establish a successful High School in a particular county, would the pupils all have to be inhabitants of the county, and none besides? Would not that High School, if it were successful, and if it were conducted in such a way as to commend itself to the minds of people in different parts of the country, assimilate to itself pupils from the families of those who approved the particular methods as well as the instruction in that school from all the counties round about? If they had a school organised on system in every county, a uniformity of organisation was likely to accrue; every county school would be like every other county school, so that no choice would be allowable. The manufactures or the natural products of particular districts marked out the peculiar characteristics and the special educational needs of particular regions better than geographical lines, or even the character of the soil. Because there was in Scotland a sort of demand for secondary education, as Lord Balfour had in his address pointed out, it did not follow that it stood at all in relation to this special question. Lord Balfour had said that that was the poor man's question. It was, as he stated it, the question of furnishing the means of superior instruction for intelligent boys in public elementary day schools. This desirable object was mostly to be worked out by a wise administration in the existing schools under the School Boards. But the question they were discussing was altogether a different matter. Professor Laurie had told them more than once that the schools he was dealing with were for the middle and upper classes. Now, a State provision of education for the middle classes was a problem *per se*. He did not know how it was in Scotland, but in England secondary schools could certainly not be managed in the way Professor Laurie had described. Many difficulties arose in considering the question. Were the schools to be day schools, or were they to be boarding schools? If only day schools, they would be imperfectly adapted, would be by no means adequate to the needs of the middle and upper classes. In dealing with a question like this, Professor Laurie ought to have attempted to have settled this point. The Americans had High Schools, but they did not cover the breadth of the demand. He had mentioned the other day that Philadelphia, with a population of nearly a million, had only one school of this class, with

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six hundred scholars attending. Were they, then, to suppose that the higher class children in America did not learn Latin? The children of the best classes in Philadelphia learned Latin as they did in Scotland, but not in this solitary High School with its six hundred scholars. American better class boys learned the classics in the colleges and boarding schools in different parts of the country, and that was where, for the most part, the superior education of the States was accomplished, and not in these organised High Schools. If they attempted to supply the demands of Scotland with this class of schools, placing them in county towns of small populations, they would not be able to get scholars enough to organise them, and would be in endless difficulty and complication. Then, as to the payment of rates, he thought Professor Laurie had used some language regarding the 4*l.* householders which he would hardly have used on the hustings. He had also drawn some striking distinctions between the *populus* and the *plebs*. He doubted if Professor Laurie, even in his most persuasive tones, could persuade the *plebs* that it was to their advantage, even indirectly, that the children of the upper classes should be enlightened whilst they were kept comparatively ignorant. They would not feel the force of the argument very strongly. It was true that the middle and upper classes helped to pay for the education of the labouring class, but this latter class would not feel it to be a very satisfactory thing to help to pay for the education of the upper and middle classes, without having some voice in the matter. The education of the upper and middle classes might be safely left to the operation of the laws of supply and demand. The centralisation system was capable of being carried too far, and many good schools would be weakened by it. These organised High Schools would conflict with others paid for out of the rates. He believed in educational boards and sub-centres, and in a council of education, consisting of representative experts and some Government appointees. But he could not see how the new kind of machinery proposed by Professor Laurie could be practicable and work satisfactorily. It was, however, a question well worth discussing. It stirred up a number of doubts and difficulties which could not be settled off-hand.

Sir George Campbell, K.C.S.I., M.P., believed in the benefit of some common supervision of higher instruction, but not at all in the way Professor Laurie had proposed. Professor Laurie was in favour of the supervision of secondary schools, but not the popular supervision of them. Then Dr. Rigg had adhered to the system of free trade in education. No doubt the question as to Government supervision was not at all clear. He had been astonished to hear Dr. Rigg, who claimed to have some experience of America, say that the Americans had no general system of secondary education. But the whole thing was explained when it afterwards transpired that Dr. Rigg's view of higher education was confined to classics. It was perfectly true that classics did not form the main part of secondary education in America. Why? Because the Americans knew better—they found it did not pay to have the instruction mainly classical. He confidently asserted that public higher education was given throughout all the States of America. An education was given in these schools which was really higher than that

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which prevailed in the schools here. It was quite true that in some States there were plutocratic class schools in which the richer children were separated from the poorer, but throughout all the better places in America no such feeling existed. Not only did the poorer children obtain that higher education which they could not easily get in this country, but the richer children mixed with them. It was even more so in respect to girls. He had found that the highest classes in some schools were almost exclusively occupied by girls. The explanation was, that boys reaching the age of sixteen or seventeen went to offices, whereas the girls continued their education. The Americans also gave a better technical education in their technical schools, than was given here. Dr. Rigg was entirely wrong in denying that the Americans had a public system of higher education. He thought that Professor Laurie had taken a somewhat professional view of the question in his Paper. All professional departments should be controlled by the popular element in a free State, and education should not be an exception to that rule. He was rather for local rule in this matter, and objected to extreme centralisation. The conservative element prevailed too much already in certain of their educational authorities in Scotland. Executive home rule without legislative home rule was a mistake. He was not in favour of the revival of the Scotch Education Board, being satisfied with the general principles on which the London Board administered the funds at its disposal, and preferring local management to Edinburgh management.

Bailie DAVID LEWIS (Edinburgh) objected to the Paper, not only on account of what he considered the author's educational peculiarities, but because it tended to widen the gulf between the various classes of the country, which they all so deplored. Professor Laurie had certainly been outspoken. The ratepayers had been spoken of in the most depreciatory terms. The Reform Act of 1867 had determined that householders were to have a voice in the management of all public affairs, and there was no reason why education should be excepted. Professor Laurie appeared to be afraid that the standard of education would be lowered, and the status of the teacher endangered, by the introduction of popular control into their educational institutions. But the opposite was the case. The principle of the whole Paper was fundamentally wrong. The High Schools in Scotland, under the control of the Town Councils, had worked with satisfactory results, and when the Education Act was passed, these schools were with common consent transferred to the School Boards. Professor Laurie, before he prosecuted his mission further with any hope of success, would have to prove that there had been something unsatisfactory in the working, for instance, of the High School of Edinburgh. They did not require to go to the United States to find out what had been the effect of the popular government of local institutions. He did not at all like the tone of Professor Laurie's remarks about the 4*l.* householders. It was a settled constitutional principle that those who paid rates should have a voice in their expenditure, and it would not do now to propose in Scotland to depart from that principle. The smaller householders knew the value of education, as they had felt the want of it. The humbler and industrial

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classes wished very much for their children to be educated. The views advanced by Professor Laurie would not make much headway in Scotland now. Let them have educated men, by all means, to manage these higher schools, but it was also necessary in the management of large sums of public money that they should have business men to regulate the expenditure. There was one generous element in Professor Laurie's Paper—he proposed to allow the present managers of endowments to continue to manage their charities. He might mention that high social standing was not necessary for the management and control of such institutions. There were men in the House of Commons, of mark, who had not been trained in a classical seminary, and did not belong to any such class. Where those educational seminaries had been dealt with by the popular representatives of the people, they had been dealt with properly. He must protest against arguments of the kind advanced by Professor Laurie being brought forward at such a time as this in Scotland.

The Rev. JOHN KAY (Edinburgh) said the Paper appeared to him to strike very much at the foundation of representative institutions. If Professor Laurie's views were of any value upon these points, he ought to be prepared to go further, seeing that the same parties who chose the School Boards also elected the House of Commons. He felt sorry that Professor Laurie took such a low view of the present Scotch School Boards. He had looked narrowly into the working of the Education Act; and as far as he could see, the election of School Boards had resulted in advancing the status of the teachers of their public schools, and in increasing their remuneration. He dissented entirely from any attempted distinction in this case between the *populus* and the *plebs*. He should regret very much if it were to go forth from this section of the Social Science Congress, which busied itself with the welfare of the people, that it regarded the breath of the smaller householders and labouring classes as 'pernicious and pestilent.' Those were most unfortunate expressions; all the more unfortunate, that they had not been employed in the heat of discussion, but in a carefully prepared Paper. Professor Laurie had admitted that the School Boards of Glasgow and Edinburgh were pretty near the mark. Both these School Boards, however, had been most distinctly elected by the *plebs*. They would most of them agree with Professor Laurie's remarks as to the injurious effects of centralisation. The principle he wished to affirm was, that secondary education, in order to be aided and supported by the rates, must involve a full representation of those who paid the rates.

The Rev. Dr. THOMAS SMITH, D.D. (Edinburgh), concurred with the latter part of the Paper respecting centralisation. He also agreed that in Scotland they had reason to find fault with having been made a province of England in regard to education. They had boasted in Scotland for some time that their education was superior to the English, and it was not fair that they should be made a part of the great national system of Britain. He thought they could not agitate too much in regard to this matter. Dr. Rigg, in his remarks, had appeared to have forgotten the difference between England and Scotland in the matter of providing secondary education. England had so many splendid and

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ancient foundations for the provision of education, that the position of the two countries was very different. Legislation in the matter was needed in Scotland, where it was not required in England. He did not quite see how Professor Laurie would carry out his idea of the county schools. Professor Laurie's objection to a representative board was that it might be tempted to cut down expenditure. But if the landlords, as Professor Laurie had seemed to indicate, were to be associated with School Board representatives, it appeared to him that they would have a more direct pecuniary interest in keeping down expenses than even the members elected by the general ratepayers. He must say that he was no great advocate of plebeianism, as he rather leant to conservative views, but, at the same time, he thought the system of electing School Boards had worked well on the whole. There was in Edinburgh a large plebeian constituency. He had to do with the most plebeian part of it, composed almost entirely of aliens to his country. The cumulative vote was not always used in a very sensible way. He thought that Sir George Campbell might have dwelt more strongly than he did upon the importance of a considerable degree of independence on the part of local government. If he was not mistaken, Sir George Campbell would admit that Bengal would have benefited if it had been more independent of the Government of India.

Mr. T. E. Heller (Member of the London School Board and Secretary of the National Union of Elementary Teachers) was afraid that a good deal of confusion was likely to arise in discussions of this kind, if they did not all agree in settling the meaning of the terms 'primary' and 'secondary' education. He thought the views of Sir George Campbell and Dr. Rigg were not so far apart as some might imagine. Dr. Rigg was quite correct in his remarks about the schools of the United States. He (Mr. Heller) regretted the line of thought in the opener's Paper, for it seemed to stratify education where they had been trying for years to fuse it. He had been through three strongly contested School Board elections in one of the largest metropolitan centres—Lambeth—and he had found what he supposed would be called the *plebs* to have the keenest and most intelligent interest in the work of education. The great want, in the matter of secondary education, was that those who engaged in teaching should be competent. They had right to expect security for this from the State. He did not think that the introduction of the plebeian element into the control of education contained any serious danger; he rather thought it gave security to a national system, and popularised it in the minds of the people. He could not agree with Dr. Smith that there was a wide difference between England and Scotland in the means to be adopted for providing higher instruction. There was in England a great desire for public secondary education. The education grant from Parliament was a far greater endowment than the old charitable endowments were, most of which were now altogether diverted from their original purpose, and made to apply exclusively to the upper classes. The argument which Dr. Smith had brought forth with reference to the English endowments was not a valid one. There was no adequate means of testing and examining the work carried on at these endowed higher schools. He

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did not see the necessity of local governing authorities; there should be a Ministry of Education, under which both the primary and the secondary schools should be brought into harmony with each other, and by which the whole national system throughout the country could be made homogeneous.

Lord REAY said he thought the question of the popular element in education was practically settled by the Act which gave the householder paramount influence in the government of this country. All parties were then agreed about his merits; and more praise had then been bestowed on the householder by the Conservatives than by any other party. It had been justly said that that part of the Paper really attacked the principle of the government of this country. It was now taken for granted that householders had a right to manage their own affairs, but professional educationists had also on their part a right and a duty to inform the householder what were his obligations. If it came to be a question whether householders were enlightened enough or not he would rather fear that—if they were not—it was because professional educationists had not been able to make their own views clear and lucid enough to enlighten them. They must not lose sight of this other principle, that education was paid for in the first place by the rates, and that the people who contributed to those rates must elect the boards. On the other hand, they had the Government giving a grant, and he did not see how it was possible to prevent the Government from controlling education as far as the grant gave them a right to interfere. At the same time the Government should attend to the advice of the profession; the question was simply how professional educationists were to influence the management of educational affairs. It seemed to him quite plain that there should be a central department, and for this very reason, that it was the best organ for collecting and sifting the views of the profession. The French system gave that guarantee. In France there was a Council of Education, taken from the various strata of the educational world, which shed its light over the bureaucratic spheres which had been depicted in such gloomy colours in the Paper. To this description of the existing central authority he took exception also. He thought the author of the Paper had scarcely done justice to it. He did not see why the various interests which were engaged in the great work of education should not be made to act harmoniously and energetically. If he (Lord Reay) had had the handling of this subject, instead of putting those various interests into opposition, he would much rather have put them into juxtaposition. As regards secondary education, he had no objection to the principle laid down that those who could pay for their own education should do so. But secondary education was not merely an article of luxury for the higher or upper middle classes, but quite as much a want for the great body of the people; and the Scotch system, which had provided cheap secondary education, deserved more credit than had been given it by Dr. Rigg. A large part of the people could not pay for that higher education to which the elementary naturally led, and he did not see that a better purpose could be served than that of increasing and of spreading, not only among the population of their towns, but in the

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rural districts of counties, a system of secondary education complete in itself. This was not creating an artificial, but supplying a real want, which had been recognised and admirably provided for in Edinburgh by the Watt Institute. After the success of that school nobody had a right to say that secondary education of that description was not a great blessing to the people at large.

Mr. J. R. Langler (Vice-President of the National Union of Elementary Teachers, London) said his experience of the *plebs* was that they would elect the best men who came before them, speaking generally. This *dictum* would very well apply to the composition of the London School Board, which was a body held in high popular estimation, although not so high as at its first formation. The danger lay in the unwillingness on the part of those best qualified to manage educational matters to come forward. He wished to point out a new departure in Art. 19, c. 1, of the New Code (England) in which, for the first time, methods of instruction are prescribed. He thought the liberty of education in Scotland had been somewhat underrated. There was no special reason why there should not be one code for the two countries, with, perhaps, at present, a difference in regard to secondary instruction, which had always received more attention in Scotland than in England.

Lieutenant-Colonel Dodds (Edinburgh), as an argument for the contention that something more than local control was necessary, instanced the case of a Royal burgh in Scotland which had a school rate of 10*d.* in the pound, of which only about 2½*d.* went to the secondary school situated in the town. The provost of that town had warned the ratepayers that every boy who left the elementary school and went to the burgh school cost them 30*s.*, with the view, he supposed, of dissuading them from sending their children to that school.

Professor Laurie, in reply, said there had been a great deal of misapprehension as to the drift of his Paper. The last speaker had given them a case in point, and there were many such cases. He spoke from knowledge when he said that School Boards, as they were now constituted, were not competent to control the government of High Schools. He had cited Edinburgh and Glasgow as illustrations that in all large places a better class of men, from the influence the position gave them in the town, would be found coming forward as members of the School Boards. They attained that result in consequence of the largeness of the area, and he wished to give the poor provincial towns the same chance. Dr. Rigg wished secondary education left to the operation of supply and demand; but if the State was not to take heed of the education of children between the ages of eleven and seventeen, why should it have anything to do with universities? Were they, like America, to have free trade in universities, and have college competing with college in granting degrees, and fixing as low a standard of education as possible? In Scotland, moreover, they were already committed to the principle of the State aiding secondary education, for in every Scotch parish they could, under the Act of 1878, raise 10,000*l.* a year, if they liked, for the higher schools. He could not reply to all the arguments made use of

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against his Paper, as he had been attacked by almost every speaker. Mr. Lewis had asked why exception should be taken to ratepayers' management of educational matters? His reply was, Because a board elected by 4*l.* ratepayers was not competent to do the work. They were too ignorant; that was all. They had been invited to look at what the municipalities had done in the past for secondary education, and the High School of Edinburgh had been used as an example. This school, until the board took it over, had been a very good school, but quite behind the time. It only showed the limited and hopelessly narrow view that men had of what a High School should be when Mr. Lewis held up the Edinburgh High School as perfection. He held—nay it was notorious—that the municipalities of Scotland had grossly neglected secondary education. The burgh schools had been simply parochial schools more largely attended than the parochial schools in country districts, and the teaching in the vast majority of cases was lower than the teaching in the country schools. An attempt had been made by certain speakers to mix up the question of education, and his own opinions, with the social question and the relation of class to class. He had as much respect for the 4*l.* ratepayer as Mr. Lewis had, and perhaps a more independent respect for him, as he was not in any way his mouthpiece, or looking to him for a vote. [The arrival of the luncheon hour prevented Professor Laurie continuing his reply to the other speakers.]

MISCELLANEOUS.

The Rev. Brooke Lambert, M.A., B.C.L., read a Paper[1] on 'Teachers' Opportunities of Training and the Need of Multiplying them.' After dwelling on the importance of remembering that education was not a mere communication of knowledge, but a drawing out of the whole powers of the child, he dwelt on the need of training for teachers. Comenius' maxim, 'The way to teach children is to study them, not books,' was a most important one. There were no educational hospitals which students might walk in order to obtain the requisite experience. He pointed out the great need of training colleges for persons engaging in higher education. Government subsidised training colleges for elementary teachers—for other teachers there were only such advantages as the universities had at last opened up to them—and that without practising schools. There was one exception to which he would call attention—the Teachers' Training and Registration Society had established a college for women teachers in Skinner Street, Bishopsgate. There was a practising school, in the shape of

[1] Published in full in the *Journal of the Women's Education Union* of October 1880. Chapman & Hall (Limited) London.

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a middle-class school, to which the Rev. W. Rogers had given them admittance. The college was lately under the care of Miss Lushington, and now under that of Miss Agnes Ward. At the late examination of the University of Cambridge, thirty-two advocates presented themselves; of these twenty-four were students of this college. In the certificate list fifteen present and two past students passed in all three subjects. All those marked as having received a certificate in practical teaching were students of this college. He hoped others would follow this good example, and establish colleges for training men as well as women.

Miss MARY BURTON contributed a Paper on 'Sewing in Public Schools.' The writer began by referring to needlework as one of the 'six queenly and muse-taught arts,' and also as one necessary for the welfare of every household, and commented upon the decline of the former, while adverting to the way in which it might be made of educational value. As regards the latter she urged that the sewing machine had in many respects superseded hand-sewing, and that the use of it should be taught in our public schools, though the needle would still have to be employed in all the needful work of patching; insisting that a patch was not 'a badge of poverty,' but rather a sign of the thrift of those who were well to-do. She had seen patches on the elbow of the jacket of a Spanish peasant, which were repeatedly renewed in a way which would please the most fastidious taste. Hand-sewing as a means of gaining a livelihood was quite superseded by the machine. Miss Mary Burton further criticised the manner in which sewing was taught in schools, and deprecated the teaching of that kind of work which would be better done by the machine. The first cost of it could be readily borne by the school, and children very easily learnt how to work with it. Darning, sewing on buttons, and the 'stitch in time which saves nine,' must still be done by hand, and boys should be taught to do this as well as girls. 'There is a cry that women do not make and mend their household clothes as they used to do, and there is a counter-cry, and it is this, that hand-sewing women are the worst paid class of workers. I ask, what is to set this anomaly right?'

The Rev. Dr. RIGG (Principal of the Wesleyan Training College, London) read a paper on 'Educational Phases and Fallacies; or, Considerations as to National Education in its largest sense, as judged by the Evidence and Results in some of

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the leading Countries of the World.'[1] He began by defining national education in its largest sense, so as to show how much more was included in it than all that can be taught in school. He included, besides religion, national liberty, public opinion, political institutions, handicrafts and industries, material progress, and various other living forces in a nation's development, among the potent elements of national education. He argued that the completeness of school-provision under Government direction was no true test of the educational status of any nation. The most backward people, waking up at length to their educational deficiencies, or under the strong compulsion of a despotic government, might create a system of schools and of compulsory school attendance, which, in their theory and their appointments, might be more perfect than those of a nation of ancient liberty and civilisation, in which school education had been mainly voluntary and natural in its growth. The perfection of the mere educational machinery might be in the inverse ratio of the actual educational advance of the country. He held that, on an average, the people of England, taking the word education in its largest and truest sense, were a nation of better educated men and women than the people of Germany or of France. Whatever might have been, for many years past, their school instruction generally, or the power of the people to read and write, yet as to all that belonged to social refinement, domestic and sanitary science, and liberal enlightenment, Germany was a country far behind England. It did not follow that because Germany was perhaps the best school-drilled country that it was the best educated country in the world. An educated nation should be an enlightened nation; but, notwithstanding all their compulsory schooling, in respect, for example, of sanitary science, some of the worst Irish villages would compare favourably with the inferior quarters of many a first-class German town. The enlightenment of a nation could also be judged by the relations which existed between the sexes, and in respect of real courtesy and regard to women, England stood much higher than Germany. No English labourer would think of treating his wife with the coarse and unconscious oppression which the German peasant used to his wife. In proof of this general view, he referred to Mayhew's work on Germany, and to a book, entitled *German Home Life*, and written by an English lady of high rank, who had lived many years in Germany. He described the appearance and character of an average German school of

[1] This Paper, under the title 'Education, English and Continental,' appears as an article in the *London Quarterly Review*, January 1881.

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primary instruction. In respect of school premises and school furniture, of the staff, the methods of instruction, and rules of promotion, of the ventilation and the exercise, and health of the children, he described the German average school as distinctly inferior to the average English inspected school. The proportion of scholars to teachers was much too large. If sound results were attained, this was due partly to compulsory attendance twice every day for seven years, and partly to phonetic spelling and a decimal system of arithmetic in all kinds. Germany must be allowed eminence in music and the fine arts, but the musical knowledge of the Germans did not come to the German people through its schools. It was partly due to the State concerts of the numerous petty Courts into which Germany was before divided; to the masses and chorales of sacred music, and partly to their patriotic songs. But now, with their system of elementary schools in England, where singing was extensively practised, music was better organised here for the people at large than in Germany. No true Englishman would rest until all his countrymen were able to read and write and keep plain accounts. But he thought the English peasant who could not read and write was often a man who would compare most favourably with the German *bauer*, with his coarse habits and manners, who once could read and write, but who, after he left school, absolutely read little or nothing. He admitted that, in respect of secondary education and technical schools, England might learn something from Germany, and in respect of the application of science to artistic manufactures they might learn a good deal from France; but, after all, whatever England might gather from other countries, England would have to find out her own defects, and compare herself, not only with herself, but with a high ideal standard. Secondary education in England, he thought, would ever remain, as it ought to remain, the result of voluntary energies, even when it had come to be organised on scientific principles. He did not think they had much to copy from the American free system. Such a system was impossible in this country, where it had been condemned by all masters of political economy, from Adam Smith to Fawcett. The great deficiency of the English lower classes was improvidence of character and the want of habits of thrift. On the Continent providence and thrift had been fostered by the system of peasant proprietorship which prevailed, and which would be impossible to become general in this country. But something might be done to produce equivalent results in the development of character for the English working classes.

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Mr. DAVID CHADWICK gave some account of the Holloway College, now in course of construction at Mount Lee, Egham, Surrey, for the Education of the Women of the Upper and Middle Classes.[1] The governing body will consist of twenty-one persons, to be appointed partly by the University of London and partly by the Corporation of London, and it is stipulated that a certain portion shall always be women. Religious opinions are not in any way to affect the qualification for a governor. The governors will be empowered to provide instruction in any subject or branch of knowledge which shall appear to them, from time to time, most suitable for the education of women; and the curriculum of the College will not discourage students who may desire a liberal education apart from the Latin and Greek languages. Proficiency in classics is not to entitle students to rewards of merit over others equally proficient in other branches of knowledge. It is intended to provide twenty Founder's scholarships, of the value of 40*l.* each, tenable for not more than two years in the College. No professor will be required to submit to any test concerning his or her religious opinion, and denominational theology is not to be taught. The Principal of the College will be a lady, and duly qualified lady physicians and surgeons are to be resident in the College.

The following is a condensation of a Paper 'On Temperance in Primary Schools,' contributed by the Rev. JOHN KAY:—The question of the nature and use of alcoholic stimulants has of late years forced itself upon the attention of all social reformers. There exists a common agreement that intemperance is at once the scandal and the scourge of modern society. The poor, the rich, the educated, the skilled mechanic furnish year by year their quota of victims to this terrible vice. The efforts of temperance societies have been devoted to remedying the evil; but these efforts have been largely rendered abortive by the difficulty of dealing with those in whom the habit has been formed. It is felt by these societies that the main hope of success lies in dealing with the young, and in instructing them as to the dangers connected with the use of strong drink.

The passing of the Elementary Education Act, and the formation under that Act of School Boards popularly elected, gave an impulse to temperance work among the young. In 1876, but more specially in 1879, a distinct issue was raised as

[1] A full account of the buildings and foundation has been published by the author of this Paper.

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to the necessity for a more systematic teaching of temperance to the children attending the elementary schools. A resolution unanimously carried in 1875, at a conference of medical men in Edinburgh, to the effect that steps should be taken to induce the School Boards of the country to embrace among the subjects of instruction an accurate knowledge of the teachings of chemical and physiological science respecting intoxicating beverages, proved of great service in calling attention to the importance of the subject.

In the School Boards of London, Bradford, Birmingham, Leeds, and other large centres of population systematic instruction is given upon the question of temperance, under its physiological and economic aspects. In Glasgow, the Board has intimated its wish that in connection with lessons in physiology for the boys, and in domestic economy for the girls, in the three higher standards, the pupils shall be informed as to the nature and effects of alcoholic liquors, and that the teachers shall, at suitable times, impress upon the scholars generally the danger of intemperance and the duty and advantages of sobriety. In the forty-four elementary schools of Glasgow text-books upon the question of temperance are furnished to the teachers by the Board. In Edinburgh, a circular dealing with the same question has been issued to all the teachers, with the expression of the wish that they should from time to time report as to the means adopted for imparting instruction upon temperance. The Governors of Heriot's Hospital, who have upwards of 5,000 children in regular attendance at their elementary schools, have unanimously issued instructions that the teachers should specially give their attention to this matter.

The difficulty of finding time for such instruction on the part of teachers has been overcome by the excellent spirit shown by them and by their sympathy with the question. It is for the interest both of teachers and ratepayers that intemperance should be diminished. Irregularity of attendance, arising out of intemperance on the part of parents, seriously diminishes the grant given by Government, and entails no small expense in the prosecution of those who neglect the education of their children. From 70 to 80 per cent. of all the cases dealt with under the compulsory clause have their origin in intemperance.

Recent scientific investigations into the nature and effects of alcohol; statistics carefully compiled; the annual loss of life through intemperance—these and many other things bearing upon the question form a storehouse of material for

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illustrative lessons which our leading publishers of educational works have not been slow to avail themselves of. The Messrs. Chambers, Nelson, and Collins, who hold an eminent place among our Scotch publishers, have embraced the question of temperance in their admirable series of school-books. It is dealt with under the heads of physiology, laws of health, social economy, and thrift. These lesson-books find their way into the homes of the people, and operate largely for good among parents and children alike. An effort is also being made to introduce temperance songs into our elementary schools, and not a few of the School Boards have placed upon their list of school-books to be used in the music lessons an excellent compilation published by Messrs. Parlane, of Paisley. One of the most popular of the text-books on temperance—that, viz., prepared by Dr. W. B. Richardson, at the request of the National Temperance League—is extensively used in Great Britain and Ireland, and also in the Colonies.

The teaching of temperance to the young attending our elementary schools is rendered comparatively easy from the fact that, whatever differences of opinion may exist as to the propriety of the use of alcoholic stimulants on the part of adults, there is but one opinion as to the impropriety and danger connected with their use on the part of the young. The question involved in such training is of vast importance to the national life and to the national prosperity. With the increase of a sentiment favourable to temperance instruction, with the co-operation, so willingly rendered, of our teachers, it is not too much to believe that the time is not far distant when intemperance and its attendant evils shall be things of the past.

The following resolution was then passed, without a division:—

'That the Section recommend that the Council consider the desirableness of bringing under the notice of our educational authorities the expediency of having introduced into our public schools lessons on temperance and kindred subjects affecting the sanitary and physiological welfare of the children.'

Mr. Edwin Chadwick, C.B., contributed a Paper 'On the Rise and Progress of the Half-School-Time System of Mixed Physical and Mental Training.'[1] After reciting the origin of the half-school-time principle under the Factories Regulation Acts, he stated that his experience and observations enabled him to establish by large masses of evidence from experienced educationists in schools wholly on the half-

[1] This Paper will be published in full by the Author.

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time principle, contained in voluminous collections, the following propositions :—That the usual course of school-teaching, which requires five or six hours of mental effort from very young children of the average ages taught, from the seventh to the tenth year and above, in the common elementary schools, is largely in excess of their capacity of attention at those years, and is in violation of the laws of psychology. That the present excessive hours of sedentary application required from little children, beyond their proved capacity of voluntary and profitable attention, are mentally injurious, induce associations of weariness and disgust with the matters taught, and create comparatively diffused, slow, and dilatory habits of mind, often provoking corporal chastisement. That however good may be the sanitary condition of a school, however well it may be ventilated, warmed, and lighted, the common period of six or even five hours' sedentary constraint required from young and growing children of the average ages attending schools, is in violation of the laws of physiology, injurious to their full bodily development, and to their vigorous aptitude for labour. That more extensive and grievous bodily injury is inflicted by prolonged sedentary occupation in schools on young females than on males, since the habits of females allow them less of out-door games or exercise. That whilst the practice in good half-time schools of three hours' mental effort daily is proved to be adapted to the natural capacity of young children of from seven to eleven or twelve years of age, and is a provision which may rightly be made obligatory on those engaged in productive labour, it is proved to act beneficially as a security against bodily overwork, preventing them from being worked during the same stages as men; all bodily as well as mental labour for young and growing children during the same length of hours as grown adults being a source of deterioration of the working stock of the country. That as school-houses are commonly constructed and schools conducted without proper regard to sanitary science, they are the frequent sources of disease and of permanent bodily infirmity, and tend, together with excessive sedentary constraint, to aggravate an excessive infantile mortality. That, for the prevention of these injurious results, a special sanitary service applicable to schools is needed for the correction of the common evils of their construction and the protection of the health of children therein. That by improved mental culture, by trained teaching on a large scale, on the half-time system, inaptitudes are removed, and superior mental aptitudes are imparted, in combination

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with bodily aptitudes for honest and sustained industry and service.

He stated that the half-time principle of mixed physical and mental training had now been in operation for nine years in the Government schools of the army and navy, and in about twelve of the district orphan schools. Formerly, in the era of parochial administration, there was scarcely one out of three of those who had left the parish workhouse schools found in self-supporting occupations. They were found in large proportions amongst the prison populations. The children of these half-time drilled institutions are found in prison in such proportions no longer; and, strictly speaking, they are not found there at all. Allowance being made for cases of irretrievably bad bodily and mental conditions approaching to idiotcy, all but a very small proportion are found in good places of self-supporting industry. With them hereditary pauperism, mendicity, and criminality are extinguished. But what is the cost of this teaching and training power; and what are its results? The gain is in years of life, as well as in hours of days made available for productive industry. Including the infant-school teaching, the children on the half-time system attain, by the tenth or eleventh year, results nearly, if not quite, as good as those attained in the common National or voluntary long-time schools, while the cost is little more than 1*l.* per head per annum of the children taught, or less than one-half the cost of the London School Board. Including good teaching in the infant-school stage, the three R's are imparted in five years, at little more than 1*l.* per head, including the physical training, as against more than 2*l.* per head for seven years, without the physical training; two years of time for secondary instruction combined with further physical and industrial training are gained; while the long-time National and Board schools exclude from advanced secondary education the great bulk of the population, who cannot usually afford to keep their children at school beyond their thirteenth year. Thus the general result of the combined mental and bodily training on the half-school-time principle is to give to two of such children the efficiency of three on the long-school-time principle for productive occupations.

To the general outline of educational reform on the half-time principle of mixed mental and physical training which he submitted, he would add the objective points hereunder set forth. That the infant-school system, including the kindergarten and all available refinements, should be regarded as the very foundation of a national system of education; inas-

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much as it operates on the most formative period of life, and is found to save about two years of time in elementary education and consequently in productive occupation. That it is an objective point to free the whole course of education from pain, mental and physical, and to make it as pleasurable as possible. If in examining a school there are perceived languor, lassitude, and exhaustion among the pupils, there is bad teaching; if there be frequent recourse to corporal punishment, there is bad teaching; if there be frequent truancy and desertion, there is bad teaching. That our elementary education may be greatly improved by the adoption of the methods in use in Germany for teaching reading and writing at the same time, by the use of the phonetic methods of spelling, with limitations, at least in the earlier of the school stages, and by the adoption of the decimal system of teaching arithmetic; by which means the time of imparting these branches of instruction may be reduced by about one-half, with great improvement in the results. That the time of compulsory attendance to sedentary work in the school should be authoritatively limited to the general period of receptivity; that is to say, to three hours daily. That time thus saved in the sedentary work of the school is time gained for the more formative work of physical and industrial training, and may in certain cases be wisely used for extended secondary education, from which the children of the wage class are now with us practically excluded. That by physical training, by military drill, and by naval exercises, the virtues comprised in the term 'discipline' are imparted, viz.:—self-restraint, patience, prompt obedience to command, order, and respect for authority; that this teaching augments the value of labour for private, for agricultural, manufacturing, or other service; whilst for national purposes, by transferring much of military or naval training from productive, adult stages, to non-productive or even juvenile stages, it conduces to large national economies of productive force. That, as respects the wage classes generally, instead of sacrificing productive industry, at any stage of working ability, to the convenience of the school and of the school teachers, the convenience of the school and of school teachers should be made subordinate, and to conciliate the fair demands of labour. That it is proved by sufficient normal examples that the system of mixed physical and mental training on the half-time principle constitutes an effective civil service for the prevention of crime, and tends to reduce the necessity for the agency of the penal service, of police, of penal judiciaries, and of prisons.

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Mr. Rowland Hamilton, in a Paper on 'Local Government and National Education,' referred to the importance of good local government both to the direct interests of education and to many other social interests with which it should be closely associated. He quoted the report of the Census Commission of 1870 in proof of the confusion which had arisen from the apparently reckless manner in which the country had been divided and subdivided for different purposes, until the multiplicity of incongruous areas had become a serious obstruction to efficient and economical administration in any. The consolidation of these areas had become an urgent question, so that the different elements of local administration 'might be duly associated together under one centre.' Some had advocated the Quarter Sessions division; some the Union; others some of the Census districts as areas sufficiently large for the organisation of efficient local government. He did not, however, think that natural causes would in all cases allow of the adoption of one area for all purposes, and advocated strongly the retention of the 'parish' as a 'smaller division;' such boundaries as had become altogether obsolete being swept away. In case of necessity these parishes could be united with different centres, which would be preferable to a hard and fast line, rendering a union for all purposes obligatory.

He further pointed out some of the advantages which should flow from the association of national education with other administrative work in the country, though duly reserving the more technical work of school teaching to those duly qualified for it.

He recommended the subject, which had become one of urgent national importance, to the attention of the section, not only because educational interests are directly concerned in it, but because also those most interested in this great work should be well qualified to bear their part in questions which are of such vital consequence to the purity and efficiency of social administration and the advancement of true civilisation in all classes of the community.

The Rev. Henry Solly contributed a Paper 'On Working-Men's Clubs and Institutes';[1] the object of which was to afford to those in Scotland who feel interested in the establishment of working-men's clubs a knowledge of the objects which the Central Club Union in England has found it best to keep in view, and the means which its wide experience has shown to be the most adequate for attaining them.

[1] Published in full in Nos. VII. and VIII. of *The Common Good.* Brook & Co. 232 Strand.

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Mr. Solly pointed out that while the movement has been markedly successful in England, it has taken comparatively little hold in Scotland, where information as to its nature is much needed. This information is afforded by the Paper, and may be thus briefly summarised:—

The clubs are meant to afford—

1. Opportunities of social intercourse.

2. Rational amusement and opportunities for instruction and study.

The first care must be to obtain a suitable place of meeting. For this the aid of the upper classes is often necessary. But the club must be self-governing, and too much interference of members of the upper classes in this self-government is to be deprecated. Those who lend money to provide accommodation are often unwilling to do so without retaining some voice in the management. This difficulty is best met by allowing them the appointment of trustees, chosen from the members of the club, who shall be members of the managing committee. Clubs established on the basis of 'Temperance' have generally been found unsuccessful in a pecuniary point of view, though occasionally doing much good to the members. The internal public opinion of the club is found to check any tendency to excessive drinking when beer can be obtained in them. There is, however, the danger that men may join such a club to have the opportunity of drinking after closing hours and on Sunday mornings. This needs great watchfulness. Older men object to the company of boys and youths. The difficulty is met by the provision of a separate room for those under twenty, or a youth's institute. The instruction afforded often takes the form of lectures, but is generally most welcome when it comes from educated friends of the movement in an informal manner. It must not come as from a *master*. The working men have enough of masters during the day. Discussion of topics suggested by a lecture is found very productive of good results, as also are 'conversation classes,' in which the experience of some educated or travelled friend of the club suggests themes for discussion. Such classes are entirely in harmony with the programme of the Workmen's Social Education League, of which Professor Seeley is President, and which aims at encouraging the contact of the practical workman with the better educated, but too often unpractical, university graduate or junior barrister. Mr. Solly finally makes an earnest appeal for increased funds for the Central Club Union, the need of which is very pressing, and for want of which he thinks its operations are being mischievously crippled.

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The President of the Association, LORD REAY, introduced to the meeting Baron VON HOLTZENDORFF, who called their attention to the 'Victoria Lyceum,' which was established about twelve years ago in Berlin by Miss Archer.[1] This lady was already well known in that city as a teacher, and had been engaged for some time in the tuition of members of the Royal Family. Her plan was approved by the Crown Princess of Prussia, who consented to become Lady Patroness of the Institution. Courses of lectures were commenced in 1869, under a Committee of university members and some leading ladies, and facilities offered for the revision of notes taken by students. A library was subsequently formed, and the range of subjects considerably enlarged, with the same view of promoting the higher education of women. In 1874, the Lyceum was opened to governesses and female teachers; and Miss Archer now desired to create a centre of study at Berlin, which might be available for her own countrywomen. Since the establishment of Chidienfonds English teachers have received the same advantages as German teachers. New buildings and other expenses will have to be met, and their support and sympathy are invited to the undertaking.

Dr. LEES, St. Andrews, brought the subject of the importance of technical education for skilled artisans, in harmony with elementary schools, under the notice of the section, with some valuable notices of the Edinburgh School of Art and other similar institutions, which he recommended as well worthy of consideration and support.

The Rev. JAS. JOHNSTON (Hon. Secretary of the 'Council on Education in India'[2]) called the attention of the section to the state of education in that country. The population of the whole of India was 240,000,000; of British India, 191,000,000. If they took one in seven as the proportion of children of school age to the population, there should be attending school in all India 34,000,000; in British India 27,000,000. If they took one in eight, then there should be 30,000,000 in India, and 24,000,000 in British India. What was the actual number attending school? According to the Government return there were in institutions under Government control over 600,000 pupils on the roll; in aided schools, including missionary institutions, 800,000 pupils; in unaided schools, which were for the

[1] Baron von Holtzendorff's Paper appears in full in the *Journal of the Women's Education Union* of January 1881. Chapman & Hall (Limited), London.

[2] A voluntary organisation not connected with the Government of India.

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most part of an unsatisfactory kind, 350,000 pupils. So that in all only 1,550,000 pupils were attending schools deserving of the name. Of these, 90,000 were receiving an education of a comparatively high order in middle and high-class schools. Such had been the results in twenty-five years of the Education Act of 1854. At the rate of progress they would never educationally overtake the population of India, which was rapidly on the increase. The sum voted by the Imperial Treasury for education in India was about three-quarters of a million annually, but of that only £85,000 went for lower-class education. The rest went to the higher schools, with the idea that education might percolate down to the masses from the higher colleges. That he regarded as most unsatisfactory, seeing that the Act of 1854 was passed chiefly with reference to the lower classes. They had formed an association to bring this subject before the British public; for if there was to be a stimulus given to education in India, it must come from this country.

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HEALTH.

SANITARY AREAS.

Scotch Urban and Rural Sanitary Areas.
By Sheriff SPENS.

THE subject set down for discussion is:—What are the best Areas for Sanitary Purposes, and how far should there be a Revision of the Mode of electing and continuing the Services of the Officers under the Public Health Acts? The subject is too large to be treated in a single Paper, and I propose for reasons undermentioned merely to deal with the question of Scotch Urban and Rural Sanitary Areas.

About four years ago I made an investigation into the sanitary system of Scotland, by which I mean the administrative bodies, to whom the administration of public health duties is entrusted in Scotland, and the executive machinery under these bodies. The great subject of public health divides itself into two heads—the subject matter of the law, and the administrative and executive machinery by which these provisions have to be carried out. Any person who has investigated the subject of public health, and who has read the Report of the Commissioners of 1870, must, I think, arrive at the conclusion that the last named of those two heads is probably the most difficult to deal with, and is certainly quite as important as the other head. It is clear in the first place that there must be a Central Health Authority entrusted with the superintendence of the local health authorities. In the second place, it is universally admitted that there must be urban district authorities entrusted with the health administration of those districts; and in the third place it is obvious that there must be rural health authorities. Then, again, it is necessary that there should be officials under those administrative bodies to see

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that the provisions of the law are being systematically enforced on the people. The result of the investigation which I made induced me to the conclusions—first, that there should be a reconstitution of our present Central Health Authority. In the second place, that, while having reference to the principles of local self-government, it seemed necessary that the administration of public health duties should be retained to the Town Councillors or Commissioners of Police of all the populations which had constituted themselves into towns, there should be certain provisions forcing districts to take upon themselves the burden of local self-government whenever populations arrived at a certain amount within certain areas; and further, that very considerable powers should be given to the central authority to insist upon the duty of public health administration being carried out by such districts in an efficient way. In the third place, I pointed out that the present rural local health authorities were utterly unfit for the duty entrusted to them, and I advocated a scheme for the reconstruction of rural local authorities. In the fourth place, as regarded the executive machinery, I proposed that the central authority should have central sanitary inspectors to a much greater extent than they have at present; and in the fifth place, I advocated the appointment of skilled sanitary inspectors for all the health districts of Scotland, and proposed provisions whereby a medical officer should be available to every parish. At the Social Science Congress of 1874 I first mooted the question of skilled sanitary inspection in Scotland; and, as it is impossible in the short space within which I must necessarily limit myself to deal with all the topics suggested by the title of the subject of discussion, I propose as already stated to confine myself to the second and third points which I have adverted to above. But I may be perhaps permitted at the outset to say that I propose that there should be a Sanitary Inspector-General for Scotland—either a member of the Central Board, or, should public health be made a Government department in Scotland, the resident official in connection with that department in Scotland. To him I propose that there should be a thorough system of periodical reports furnished by the sanitary inspectors and medical officers of Scotland from time to time. With these premises I now proceed to deal first with the subject of the urban health districts. At present you are aware that any place in Scotland of 700 inhabitants can constitute itself into a burgh under the General Police Act. Very small places, as you

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can easily see, by so doing place upon themselves the burden of local self-government. I am not sure that in some cases it is advisable that this should be allowed. On the other hand, there is a great number of cases where the population has increased to such an extent, and buildings have developed in such a way, without regard to sanitary necessities, that it seems advisable that the burden of local self-government should be forced upon such districts. In the large towns of Scotland, so far as the law goes (and take, for example, the towns of Glasgow, Edinburgh, Greenock, and Dundee), I think the administration is very well and efficiently managed. I believe that it is advisable, if not absolutely necessary, that considerably greater powers should be conferred upon the urban sanitary authorities; but in the larger towns, as I say, I think the law as it stands is administered as efficiently as it can well be, generally speaking. But in the smaller towns of Scotland public health administration in many cases is a mere farce. A good deal is made of the provisions of our Public Health Act being *ex facie* permissive, although there is an argument that the expression 'may' fails to be construed as the compulsitor 'shall.' Still the *ex facie* permissive appearance of the Act in certain of its provisions gives a handle to refrain from doing anything to those administrators who are anxious not to do more than they consider absolutely forced upon them under the Public Health Act. While, however, I consider there is no proper administration of public health duties by the Town Council and Commissioners of certain of the smaller burghs of Scotland, I admit that it is necessary that the representation of the ratepayers should be entrusted to the local government, and it is, I think, impossible to dissociate their public health duties from other local government duties. But it is clear that there should be very ample controlling powers vested in the central authority. Besides having a system of skilled local sanitary inspection, I hope to see a system of thorough central authority inspection; and with regard to those smaller burghs whose authorities are able to be proved guilty of wilful and systematic neglect to work public health duties, I think, on the application of the central authority to the Court of Session, it should be competent for the Court to appoint for a period of not more than one year two Commissioners invested with all the powers belonging to the local authority, *quâ* public health administrators, and for their salary the town should be taxed. If at a short period of years after the appointment of such Commissioners the central authority should have again reason to

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apply and the Court to accede to the request for the appointment of Sanitary Commissioners, I think the time for which the Commissioners should be appointed should be left to the discretion of the Court.

Passing from this point, probably most of you are aware of the tendency of small burghs to spring up around large towns. More especially is this marked with regard to Glasgow. We have on the confines of that city the burghs of Hillhead, Maryhill, Govan, Partick, Crosshill, Kinning Park, and Govanhill. Excepting, perhaps, Partick and Maryhill, the small burghs all unquestionably owe their existence to Glasgow. They and their populations are where they are simply because Glasgow is where it is. Now, apart from other considerations, and having regard to the subject of public health alone, it seems to me eminently undesirable that a large town should not be entitled to take within its limits those populations which spring up on its confines and owe their existence to the parent city. I believe that the General Police Act of 1862 has been put to a use it was never intended by its framers in connection with small urban burghs round its confines.

I have above alluded to the necessity of certain districts being forced to take upon themselves the duties of urban health districts. A notable example of what I mean is found in the case of Blantyre. I dare say in the last year or two its population has not been increasing; but in the years of great mining development there, suddenly what was a country village of the smallest dimensions sprang into a town of brick-built cottages, without any supervision whatever with regard to the description of dwelling-house put up. There was no person to report as to the structure or stability of the buildings. There was no authority to control the way in which the streets were to be laid. There was no superintendence as to the conveniences required—no system of drainage sanctioned by any authority. One of the recommendations of the Commissioners of 1870 was that the central authority should have power of imposing on rural districts, or any parts thereof, at its discretion after inquiry, urban powers. I think it is absolutely necessary that there should be some law conferring upon certain authorities powers to regulate the sanitary requirements of dense populations suddenly springing up in rural districts. Indeed, I may say one thing in regard to all houses. I do not think that any house, either in town or country, should be allowed to be put up or inhabited without some proper system of skilled inspection, both as to structural stability as well as sanitary inspection with regard to drains

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and other things requiring sanitary supervision. In England the recommendations of the Commissioners of 1870 were made law, and the annual reports of the Local Government Board show that English local authorities make frequent applications for certain urban powers, and which to a greater or less extent are almost invariably granted by the Local Government Board, the central authority of England.

In passing now from urban local authorities, I propose to deal with what I consider is the great blot in our present sanitary system, namely, the utter apathy and inefficiency of the rural sanitary authorities of Scotland. The local authority of every district which is not in the sense of the Public Health Act an urban district, is the parochial board of the parish. If a house is situated half in one parish and half in another, the one parochial board has to deal with the one half, and the other with the other. The duties of rural sanitary authorities may in many different matters be more difficult to discharge than the duties imposed on urban sanitary authorities. Without urban powers they may be required to watch over the public health of communities which are in area and population towns. It is true without urban powers to administer public health duties in populations that really, if not technically, are urban, is a matter, if not of absolute impracticability, at least of extreme difficulty; but there never has been, that I know of, any *bonâ fide* attempt to grapple with this sanitary problem, which, when it emerges, parochial boards are the responsible authorities to deal with. The parochial boards of Scotland were called into existence by the Poor Law Act of 1845. In landward parishes they consist of certain members elected by the ratepayers, delegates chosen by the Kirk Session, not exceeding six, heritors holding real property of more than 20*l.* of annual value, and the provost and bailies of any Royal burgh within the parish as individuals assessed for the poor. It would appear that the *modus operandi* of election of the trifling number of members who may be elected to each parochial board is as follows:—(I take this description from the volume I published): 'Different parishes have different days of election in each year, as fixed by the Board of Supervision. The notice of the day of election and the requisition to the ratepayers to elect is given by fixing a document to the parish church door. In some places the Inspectors of Poor go about beating up two or three people to attend the meeting for election, in order that there may be a proposer and seconder, both being necessary to make an election of those representatives, the number of whom is fixed by the Board of Supervision for each parish.

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If a proposer and seconder are got, the nominees are probably the nominees of the Inspector of Poor. If they are not obtained, the ratepayers' representatives are simply not elected, their places remaining vacant for another year, with perhaps the same abortive result on the following annual day of election.' I do not mean to say that this is the case in all the parishes of Scotland, but I believe that I am within the mark when I state that in at least half the landward parishes of Scotland the parochial boards have either no ratepayers' representative, or else their representation in that way is got up through the Inspector of Poor. My belief is that while in most of the rural parishes of Scotland the poor law duties are discharged in an apathetic and perfunctory way, unless compelled by the breaking out of epidemic diseases, or by the complaints of the Board of Supervision, the public health duties are almost universally neglected. The conclusions which I tabulated in the volume referred to were these: (1) 'In a very large number of the parishes of Scotland there has been complete neglect of sanitary administrative duties; in very few, indeed, have these duties been zealously and properly discharged. (2) The physical area of parishes is in many cases too small to have independent adequate machinery for sanitary requirements. (3) The mental area of a parish (if I may so express my meaning) is often too circumscribed for a fitting selection of guardians of public health; and (4) In many parishes there is no attendance at the meetings of the parochial boards *qua* local authority, of gentlemen of education, position, and influence, resulting in the proceedings being regarded by the community in some cases with ill-founded, and in some cases with well-founded suspicion, distrust, and dislike.'

With regard to the third of these conclusions, I may say that while selection is circumscribed not only by an actual paucity of men fitted to discharge the duties, it is further circumscribed from the fact that local men dislike incurring personal local unpopularity by properly discharging the duty of public health guardians. In the Sanitary Commission of 1870 I may explain that an inquiry was made in regard to the acting of vestries in England. It is true that the parochial boards of Scotland are not precisely in the same position or the same kind of body as the vestries in England, vestries being the inhabitants in vestry assembled, but very much the same objections apply to both. Of parishes, both in England and Scotland it may be said that utter apathy prevails with regard to public health matters. Mr. Tom Taylor in his evidence stated:—'Parishes are certainly bad areas—very

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loose divisions. One cannot say why or how far unions were formed: I presume in consideration of rateable value and population.' Mr. Simon, the late medical officer of the Privy Council, asked his opinion of parochial boards, replied:—'The question seems answered by experience. We began with parish authorities in 1855; they slipped through the fingers—he could never catch them.' Other evidence was to the same effect. I submit, therefore, on the whole matter that it has been proved by experience to anyone who is acquainted with the subject that the rural authorities of Scotland have proved themselves unfit for the discharge of public health duties. It is accordingly, I submit, necessary that a new local authority should be constituted. The suggestion which I make is to some extent founded upon what has taken place in England. The public health authorities there are the unions; that is to say, aggregates of parishes connected together for poor law purposes, embracing in many cases large numbers of parishes. They have, indeed, been found in some cases, in connection with poor law matters, unmanageably large. I would prefer to see in Scotland a change altogether in the constitution of parochial boards. I would like to see them changed into popular elective bodies. I believe that this would do away to a certain extent with the apathy and neglect which prevail in many of the parishes. But, even assuming that no change in the constitution of parochial boards is made, what I propose is that the central authority, or Commissioners appointed under a Public Health Act for that purpose, should make inquiry, having special reference to drainage and water supply, into the whole rural parishes of Scotland; and that these then should be joined in public health areas, each public health area consisting of an aggregate of parishes. (I do not urge that this should necessarily be done in thinly populated large Highland parishes.) I propose that the local authority should consist of delegates elected by each parochial board. I would prefer if such elections were to be made by differently constituted parochial boards; but still, if no change takes place in the constitution of parochial boards, I would entrust to parochial boards, even as they stand, the election of the delegate or the delegates for the district. The proposals which I formulated in the volume referred to were as follows:—(1) The Board of Supervision should fix, after due inquiry, the number of members of each parochial board in Scotland, in no parish exceeding, however, a certain number—as to which I will not dogmatise, but say eight or ten.

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(2) The election of this body to take place every three years, the electors being the owners and ratepayers, and having rates on the scale of rating provided by the English Act 7 and 8 Vict. c. 101, sec. 14. (3) The central sanitary authority should have the compulsory power of uniting parishes in public health districts. (4) The boards of health to be the aggregate of delegates chosen by the individual parochial boards of such public health districts, the number of such delegates for each parish to be fixed by the central authority, but not to exceed a certain number, say three, in any parish. (5) The election of the public health boards to take place on the first meeting of the parochial boards.

With regard to the fourth proposition, I would venture to hope that the honour of election as a delegate for the public health board would be a subject of legitimate ambition to members of the parochial board. The number of delegates for a parish, as I remarked above, in no case should exceed a certain number, say three, to be fixed by the central authority. Large populous parishes would have the full number of delegates, while small parishes would only have a single delegate. I am inclined to think that there should be no *ex officio* members of such boards.

I believe that such boards as those I have sketched out would be sure to be more useful and practical than those at present in existence.

I would merely say, in conclusion, that it is now thirteen years since our Public Health Act came into force. Since that time in England there have been the following general measures of legislation with regard to health:—The Sanitary Acts of 1868 and 1870 respectively; the Local Government Board Act of 1871; the Public Health Act of 1872; the Sanitary Amendment Act of 1874; the great consolidating Amendment Act of 1875; and the Public Health (Water) Act of 1878 amending the Act of 1875 so far as relates to the supply of water.

There have been one or two trifling special Acts in Scotland, but no general measure of legislation. I am glad to believe that the educated opinion of Scotland is now pointing to the absolute necessity of something being done in the way of a new general Public Health Act for Scotland; and should the present Lord Advocate take the subject in hand, I see little reason to doubt that a great and improved system of public health administration, as also useful provisions dealing with the subject matter of the law, would be passed before very long.

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Mr. KENNETH M. MACLEOD, sanitary inspector, Glasgow, read a Paper 'On the Necessity for an Amended Public Health Act for Scotland,' in which he enforced several important points of sanitary reform. The first defect of the present Act, he submitted, was its permissive character. Many suffered from preventable disease which the enforcement of the Act would have prevented. Another defect was the neglect to carry out the power which the Act gave sanitary authorities to provide hospitals for the treatment of fever and smallpox patients. There was no better sanitary appliance; the neglect to provide it was greatly culpable; and to provide it should be made compulsory on all local authorities throughout the country. The Act, further, was defective in the constitution of the local authority. Town councillors and police commissioners had enough to do at present, without the entanglement of the enormous and important duties that fell to be attended to concerning public health. There should be new bodies confined to sanitary enforcement alone, subject to the control of a central body, such as the Board of Supervision. The Act was defective, also, in requiring proof that a nuisance was injurious to health before an order could be got for its removal; and because it did not give the sanitary authorities power to anticipate a nuisance, by giving them control over proposed buildings. The amendments of the Act which he proposed were these: (1) To make the duties imposed on local authorities compulsory in every district; and (2) to make the provision of hospitals also compulsory; (3) to provide standards of sanitary conditions and requirements, instead of making it necessary to prove each nuisance complained of injurious to health, unless the proof were left entirely to the medical officer of health, subject to revision by the medical superintendent of the Central Board; (4) to empower sanitary boards to examine and correct the plans of every new building in their districts; and (5) to empower the local boards, with appeal to the central authority in questions involving expenditure of over 100*l.*, to decide on these questions of public health.

Dr. HARDESTY, Galashiels, read a Paper on 'Some Experience of a Provincial Medical Officer of Health,' with the view of supplementing the Paper of Sheriff Spens, in whose views he concurred, and in order to show the utter inutility of the existing Public Health Act, managed as it now was, to protect the public health. The sooner, he said, a central supervising authority with full powers was instituted, the better would it be for the health of individuals and of communities throughout

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the country. By the obstruction of his local public health authority and the inaction of the Board of Supervision, he had been forced to become what he now was—a dummy medical officer of health. He asked that the Congress should petition the Legislature to amend the Public Health Act, and the mode in which it was administered, without delay, and thus free the country from the odium of many preventable deaths.

DISCUSSION.

Dr. LITTLEJOHN (Medical Officer of Health, Edinburgh) said he was intimately acquainted with the facts stated by Sheriff Spens, and had derived the greatest benefit from the Sheriff's work on *Sanitary Organisation in Scotland*, which he begged to recommend. He could corroborate entirely all that had been said as to the failure of sanitary action in Scotland. Being consulted by the Board of Supervision, he had to travel in various districts of Scotland, and wherever he went he found an apathy in regard to the public health that was perfectly disheartening. From want of organisation, when an epidemic attacked scattered communities in the country, those communities were left entirely to its mercy, resulting not only in enormous sickness, but in a large mortality, which meant not only expense, but great mental anxiety. He agreed with what had been said in relation to small burghs springing up around large centres of population, more particularly in regard to the Blantyre district, where he had on one or two occasions been sent to inquire into the cause of epidemics. A more disheartening state of matters in any populous district could scarcely be conceived than in that place. Strings of houses—not streets—rose up in the midst of fields, producing a crowded population without any attempt to introduce the commonest principles of sanitary construction. The houses were hastily constructed, and when epidemic disease arrived the local authorities were incompetent to the task of dealing with it. In fact, there was no machinery. The local sanitary inspector could not be trusted to deal with the matter, and there was no medical officer of health to apply to. Sanitary organisation, not only in the rural districts, but in many of the larger towns and boroughs, was a perfect farce. The office of medical officer of health was a mere sinecure; £5 a year was added to the salary of some parochial medical officer in order that the local authority might justify themselves before the Board of Supervision and say they had a medical officer. Men so badly paid had no inducement to discharge sanitary duties, and, under such circumstances, sanitary work was completely at an end. He concurred in the scheme of enlarged sanitary organisation laid down by the learned Sheriff. Sooner or later this great question must be faced; but it could only be done by having a Health Minister sitting in the Cabinet and presiding over this large and important subject of public health.

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Mr. Milne Home (of Milne-Graden), as a resident magistrate, could corroborate much that had been said by Dr. Hardesty. He had often had to urge local authorities to execute the duties which the Legislature had entrusted to them, but all in vain. There was, however, some excuse for these local authorities, because it was found that when those duties were performed by them, strife and contention often arose in the district. In fact, the duty became so odious that every means were taken to avoid it. It was not merely that they wished to avoid expense, but also strife among neighbours and friends in the parishes. The only omission in Dr. Hardesty's Paper was that, while the local authorities were condemned by him, no substitute was proposed in their place to administer the law. What they did for this purpose in the county of Berwick, with which he (Mr. Milne Home) was connected, was to authorise the chief constable to appoint a superior police officer to perambulate the county, and visit the different parishes as inspector of nuisances for those parishes, with the consent of the parochial boards. Out of thirty-two parishes in the county, twenty-two or twenty-three had availed themselves of the offer; and for the last four or five years such an officer, connected with the police, had inspected the parishes, and reported to the sanitary authorities of those parishes, and his report was generally adopted, being that of an impartial person. The magistrates were furnished with a report twice a year of the number of privies, ashpits, and various other places this officer had visited. That system was found to work exceedingly well. It would, perhaps, be desirable to have an inspector with more medical knowledge; but an experience of four or five years had shown the officer what were the things that required his chief attention. Thousands of nuisances had been rectified, on the officer's report being made known to the parties who could stop them. He suggested that an officer of that kind might be appointed by the board of supervision for the whole country, to see that the county inspectors understood the work to be done, and were doing it. In Berwickshire the county inspector was paid a salary of £80 a year by the county. It was not an expensive arrangement, because it did not fall on the parishes; and, in fact, as a police officer, half of his salary was paid by the Crown. He had reason to know that the duty thus performed by the police had obtained the sanction of the Secretary of State for the Home Department.

Lieut.-General Sir James E. Alexander, C.B. (Chairman of the Parochial Board of Logie), said that a cottage hospital for fever patients in the village of Menstrie had been found of great advantage. Any fever case which arose was sent to the cottage hospital, and dealt with by the doctor of the parish. Some time ago he investigated the origin of an outbreak of fever, and traced it to the supply of milk from a farm half a mile off, and, on going to the farm, he found that the water supply there was contaminated with sewage. That was remedied, and there was no more fever, though seven or eight cases had occurred before the remedy was applied. Some pulmonary complaints were frequent, and three young men died, and the cause was traced to want of ventilation, the doors and windows being completely closed, and the same room used by three or four persons. For the information of the

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people he wrote a short paper that was published in a periodical called *Life and Work.* He wished to urge this point—that when any outbreak of disease occurred it was the duty of the health officer and inspector of poor, along with the chairman of the parochial board, to go at once and trace the source of the disease and endeavour to provide a remedy. That was what they did in the parish of Logie.

Mr. Gowans (Edinburgh) agreed with Sheriff Spens on the question of getting a better grip of the districts in regard to health; but he was inclined to go further, and agree with Dr. Littlejohn that the Government ought to make this sanitary question an Imperial one. Last year in Edinburgh they obtained a special Act for controlling the health of the city. They met with some difficulty in overcoming the apathy of those who looked more to profit than sanitary houses, but not so much as Mr. McLeod had supposed. This Act was in advance of any other obtained elsewhere, but it was still deficient in many important clauses, owing to the necessity for bringing it into accord with the Police Act of 1862 and the Health Act of 1867. It was, however, unfair to the city that the populations beyond its boundaries should still be at liberty to create disease, and import it into the population of Edinburgh. There was no doubt as to the value of Sheriff Spens's Paper, especially if his suggestions could have been placed before a Minister of Health in the Cabinet. In Edinburgh, before any builder could get his plans passed, the architect must submit them to the borough engineer, who reported upon the lighting, ventilation, and other sanitary requirements to the Dean of Guild Court, and that court, after considering as to the strength of the structure, could pass the plans, and, after that, they were registered, and copies kept, so that any proprietor could examine the plan of his house on payment of a fee of one shilling, and could in a moment ascertain where the drains were placed, instead of having to grope about as hitherto, at great expense, to find them. There were other details provided for in this Act, such as the position of the closets, their lighting and ventilation, the placing of the cisterns in proper places, and so on. They found it necessary, especially, to have control over the flatted houses in this respect. Builders and architects of such houses often placed the closets in the darkest part of the house; but he would rather have a dark room than a dark water-closet. The new Act had compulsory clauses in this respect. The great mistake of the Health Act was that it was *permissible*; but if any good was to be done, it must be *compulsory.* They had also a capital provision besides that—viz., that every case of infectious disease must be reported to Dr. Littlejohn, who was thus able to pounce upon it and isolate it in hospital. But things would never be right until there was a Minister of Health appointed with power to see that the sanitary laws were carried out by all, and not leave it optional to cities or districts to deal with them as *they* thought fit.

Dr. Wallace (Medical Officer of Greenock) agreed with Sheriff Spens on the question of extended areas, having had personal experience of the matter. In Greenock they were surrounded by a number of small towns whose sanitary arrangements did not go so far as those of Greenock, which had a special Act giving powers additional to those of

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the Public Health Act. The powers for the compulsory registration of disease were somewhat like those of Edinburgh; and in many respects that system was satisfactory. The *onus* of reporting disease fell upon the householder. The villages surrounding Greenock had, however, no such provision, and the consequence was that though in Greenock they were assiduous in pouncing on disease and tracing it to its source, often beyond the borough boundary, yet their efforts were frequently checkmated by the want of power and lack of ability on the part of the local authorities around Greenock. Some time ago several cases of typhus fever occurred at Port Glasgow, and the local authority there, under some arrangement with the Greenock Infirmary—an institution supported by private contributions—conceived they had the power to send in all cases of infectious disease, without any consideration for the requirements of Greenock itself. He called the attention of his board to the hardship of having such cases thrust on the town without even the consent of the Greenock local authority. So strongly did he feel on that particular subject that he drew up a report and got the local authority to transmit it to the Board of Supervision, requesting their intervention; but after considerable correspondence and a visit from Dr. Littlejohn, things were allowed to remain as before. This was a great grievance, and a strong reason why sanitary districts should be extended, particularly in the neighbourhood of large towns. In regard to the tedious delay which took place in carrying out prosecutions under the Public Health Act, he might instance the case of a property in a crowded locality which had given considerable trouble to the sanitary authorities. Requests made to the owner to provide a remedy were disregarded time after time, and at length the matter was taken up by the Burgh Fiscal, and the deliverance of the judge was simply that the nuisance was to be removed within three months; but in the meantime, while the proceedings were pending, typhus fever broke out, and only during the past few days he had been obliged to insist on several persons going into hospital. Inasmuch as the medical officer had declared the premises to be unfit for human habitation, he contended that the deliverance ought to have been that the houses should be shut up at once. It did not follow that because infectious disease was not actually present, the property, or locality, was healthy; on the contrary, the property might be dangerous to health. There was an urgent demand for some remedy in cases of this kind.

Mr. Lochead (Edinburgh), as a representative of the working men, said he had taken a special interest in the subject of disease among that class. There was a remark made just now which reminded him that at one time in the West End of Edinburgh there was a sort of mild typhus fever prevalent, and he himself experienced the symptoms. He began to make inquiries as to where the milk was supplied from, and he found that all the houses where fever prevailed were being supplied with milk from the same dairy. The supply of milk was stopped from that source, and other milk obtained from another source; and the fever stopped. The matter was reported to the Council and to Dr. Littlejohn, and the milk supply was traced to Coltridge, where it was found that the dairy was supplied with water

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from a well that was polluted by water from the water of Leith. The cows drank of the water from the well, and the pollution passed through the cows into the milk, and from the milk into the consumers; thus creating the disease. He thought the Acts of Parliament on the subject of health ought to be made compulsory. He knew of cases where children having scarlet fever were allowed to go to school. In regard to houses he knew that a great many cisterns were not cleaned out for years, and consequently must spread disease. They ought to be cleaned out, at least, once in twelve months.

Dr. Stevenson Macadam (Edinburgh) said the last speaker had done good service in drawing attention to impure milk, and the investigations of the medical officers ought to be turned to that point. In Glasgow that subject had been taken up by Dr. Russell, medical officer of health for that city, who had proved that a large amount of illness was caused by infected milk. But in regard to the theory of Mr. Lochead, he could not agree that the cow had anything to do with the deleterious character of the milk. He was afraid the milk was contaminated by the water mixed with it, quite independently of the cow, and that the cow was not to blame for the adulteration.

Mr. G. Greig (Inspector of the City Parish, Edinburgh) quite concurred in the views of Sheriff Spens as to the necessity of an extension of the area for sanitary purposes, but thought he had perhaps undervalued the rural district authorities and the parochial boards, which were very much hampered in the discharge of their duties, owing to the narrowness of the localities in which they had to work. Moreover the ratepayers of those localities were adverse to expense being incurred; and the boards could not venture on expenditure without proving that it was absolutely necessary. In regard to the constitution of parochial boards, the Sheriff was right when he advocated an amendment. At present the nominees of the ratepayers on the Board were outnumbered by the other members; and the ratepayers, in fact, took little interest in the subject, and could hardly be got to attend and vote at an election. If the area were larger and the authority better constituted, there would, he believed, be a more thorough working of the Act. Probably some additional powers ought to be given to the central authority. This Board suffered from having too little power and two few officials. Dr. Littlejohn was a very able officer, but it was too much to expect him to supervise the whole of Scotland, yet the Central Board was very much dependent on his reports. Supposing an extended area, one medical gentleman might be health officer for a whole county, and in that case he would be independent of any local feeling. Medical officers often complained that their reports were not attended to, but if they were made more independent there would be a better chance of their reports being acted on. He could not think it would be advisable to have additional boards as suggested by Mr. Macleod. The feeling in Scotland was that the boards required consolidation. There were in Scotland nearly 900 parishes, each having a school board and a parochial board, and they often came in conflict with each other. It would be far better to have consolidation and extended areas so as to enable the boards to act

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independently. The example given from Galashiels rather failed as an illustration, because where personal feeling arose between the officer and the board good results could not be expected.

Mr. Ivory, advocate (Edinburgh), agreed almost entirely with all that Sheriff Spens had advocated, and also with Mr. Macleod, that the powers of the officers of health should be extended. They had heard of the effect of a contaminated milk supply, but a contaminated water supply was more dangerous still. Many people were unacquainted with the state of things in Edinburgh. They had obtained an Act to bring in a supply of water from the Moorfoots, which many persons thought would be a good supply; but the result had been what others foretold, namely, that it was so bad that it could not be administered without being diluted with the better water of the old supply from the Pentlands. There had been many cases of illness in Edinburgh which had been attributed, by the medical men who treated them, to the new supply of water. At one time that water was supplied in a tolerably unmixed state to a considerable portion of the city, but such an outcry against it was made that the authorities were obliged to blend it more and more at certain times with the purer water. The city officers of health had no powers to inspect and analyse the water. About a year ago he carried a motion at a Ward meeting that the water should be analysed at a particular source, and in particular areas, by independent analysts. That motion was communicated to the Town Council and the Water Trust, but it had never been carried out or reported upon. The city analyst, no doubt, had made an analysis of the water, but it was done at a favourable time, and could not be accepted as a sufficient analysis; and he believed Dr. Littlejohn would corroborate him when he said that the analyst's report was to the effect that the water was not satisfactory for domestic use. It was very important that this matter should be under the control of the officers of health. In the case of a water supply those officers ought to be empowered to deal with it not only in the city, but throughout from its source. He believed that it was the opinion of many medical men that the water brought into Edinburgh from Gladhouse reservoir was not good. They had just heard about cisterns not being cleaned for years. Hitherto, in Edinburgh, it had been considered sufficient to clean them once a year; but the water supply from the Moorfoots now fouled the cisterns so quickly that that interval was far too long. Indeed they were now as foul often at the end of two or three months as they had previously been at the end of a year.

Dr. Littlejohn, in answer to Mr. Ivory's appeal, said what that gentleman had stated was substantially correct and he could quite endorse it. He had no power to examine the water supply. It would, he thought, be satisfactory to the inhabitants if he had that power, and if he could from time to time have an independent analysis made of the water from the source to the place of supply. The gas supply could be examined by an independent examiner. In the case of disease in a house, he could have an analysis of the water made; but what Mr. Ivory referred to, as he understood, was a periodical analysis of the water from its source to the place of distribution.

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Mr. H. H. Collins (Hon. Secretary of the Department) said he had hoped to derive information that might be useful to him in London, where he was a member of one of the vestries having control and jurisdiction over as much property as almost the great city of Edinburgh itself. It appeared to him that almost every remark that had been made by previous speakers had been well and carefully considered; and he could understand how, if the Edinburgh Act were carried out and not wilfully obstructed, the population would be protected with regard to questions of public health in a way which those of no other city in the United Kingdom, so far as he was aware, was at the present time. In justice to Mr. Chadwick, C.B., who was not present, but who had a long connection with the Association, he might say that long ago that gentleman foreshadowed questions with regard to imperial legislation on this subject, and, with other eminent sanitarians, advocated the appointment of a Minister of Health. His experience was that the same selfishness that was inherent in one country was also rife in the other, and frustrated all efforts to effectually carry out sanitary legislation. In the Edinburgh Act, however, they had a model for the various large towns in the United Kingdom. One point in the Act was peculiarly valuable, namely, 'continuous inspection,' because persons who once put their house in order were too apt to think that that was all that was needed, and that things must necessarily go on automatically and well afterwards; this was, of course, physically impossible. However perfect matters might be arranged, continuous supervision and attention were necessary. That was provided for in the Edinburgh Act, which required periodical and official supervision of the various portions of drainage, water supply, and other sanitary appliances connected with the premises. Enactments such as these were eminently useful; though he did not know if it could be worked in England; and he observed that all expense incurred would be recovered by the tenant from the landlord by way of reduction from the rent. If such wise precautions could be adopted everywhere, then if zymotic disease intruded itself into a household, it would be due to the tenant's own fault and culpable negligence. With such vigilance as enacted in the Edinburgh Act, there ought to be no epidemics of infectious disease. The Act would be a model for other parts of the kingdom, and it ought to lead to lowering the death-rate and many other rates also.

Mr. Kenneth M. Macleod (Sanitary Inspector of Glasgow) said he had the greatest respect for Dean of Guild Courts, and the powers of street linings, and erection of buildings with which they are vested, but he had a strong feeling that local authorities acting under the 'Public Health (Scotland) Act, 1867,' called specially in to correct conditions of house structure injurious to health, which had been permitted to accumulate in years past, should also be empowered to examine, correct, and approve all plans of new buildings, or the alteration of old buildings to secure proper arrangement of ventilation, light, and drainage, and thereby prevent such injurious accumulation in the future. Though he had not read the Edinburgh Act, yet from what he had heard here to-day in praise of it, he believed it must contain many admirable provisions. One important omission, however, in the

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sanitary organisation of Edinburgh he observed—namely, that the city had no chief sanitary inspector giving his whole time to the work, such as had been furnished to the people of Glasgow. A medical officer like Dr. Littlejohn could undoubtedly carry out his duties more satisfactorily were an officer of this kind placed at his right hand, to guide him as to the practical removal and remedy of structural defects, injurious to health. A sanitary inspector should have a thorough practical knowledge of building, and be able, when he saw a defect in any of the arrangements thereof, to devise a proper remedy for its removal.

Professor FRASER (Edinburgh) said the interesting discussion that had taken place had not raised the opinion he wished to entertain of Scotland in its progress in sanitary affairs. His own experience had been derived from the other side of the border. He had for several years been medical officer of health for a large district, and in that district many of the cases alluded to by Dr. Hardesty and Mr. Macleod could hardly have occurred. The various sanitary authorities comprised men of considerable intelligence, selected from a wide area. He could not agree that magistrates were exceptionally obstructive. He agreed with Sheriff Spens that there was no reason why there should be one set of regulations and laws applying to rural districts and another applying to urban districts. That was a defect of the sanitary Acts both in England and Scotland. The difference between the laws was that the urban districts had greater powers than the rural districts; but such powers as were desiderated by Mr. Macleod could be easily obtained under the urban clauses of the English Act. Bye-laws could be framed, and they generally obtained the sanction of the Local Government Board. On another point England was ahead of Scotland, for there was little difficulty in obtaining regulations for the construction of dwellings in England; and where such powers had been granted in Scotland difficulties had arisen which had not arisen in England in carrying those regulations into effect. In England, where urban powers existed, the surveyors and inspectors of nuisances supervised the plans of all buildings. Whenever a building was proposed to be erected, the builder was required to send plans to the sanitary authority, giving the dimensions of the walls, the ventilation and lighting, the height of the building, the width of the street, and other details. Unless the plans were to the satisfaction of the surveyor of the sanitary authority of the district, the builder was not allowed to commence operations. During the laying of the drains the surveyor had to constantly supervise every detail, and see that they were carried out in accordance with the plan which the builder had given to the sanitary authority. Several points which had been referred to showed that some lessons might be obtained from England as to the construction of sanitary areas in Scotland. He strongly suspected that in the rural districts of Scotland sanitary affairs were grossly neglected. It might be all very well to have a policeman to perambulate Berwickshire, but that was not the way in which the Public Health Act could be properly carried out. In his own district, where he was the first medical officer appointed under the Act, he obtained as quickly as possible after entering upon his duties from all the sanitary authorities a report of every house

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in the district. District after district was attacked (if he might use the word) by the sanitary authority, and all defects brought to light were at once remedied. That was the only way to do the work. It was impossible for any man who was not a trained and carefully instructed sanitary inspector to put even a rural district into anything like satisfactory condition. Now, in regard to water supply in rural districts, there was no difficulty in England in supervising it, because the English Act laid it down as one of the duties of the medical officer of health that he should make himself acquainted with every condition and influence likely to affect the public health. It had been his duty on several occasions to examine the source and course of the water supply of more than one large town. If the medical officer found anything wrong, it was looked upon as his duty to obtain, if necessary, the assistance of a chemical analyst, and bring the matter before the authority or authorities which had control of that supply, asking them to do what was requisite; and, should they refuse to do it, the medical officer's duty was to report to the Local Government Board. There was no difficulty in moving the Local Government Board in the matter, and getting them to send down an inspector; so that the water supply might be put into good condition without any special Act such as Edinburgh had obtained. This could be done under the common Sanitary Act in England, both in rural and urban districts. In regard to infectious diseases, and even so far as the rural districts were concerned, England was far ahead of Scotland, for there had been already obtained in many of the English rural districts a registration of infectious diseases—the medical officers sometimes voluntarily sending in reports; and in two parts of a county in which he had been interested they had isolating hospitals, to which patients were sent simply on his certificate, and without the delay of going before the sanitary authority. There were several other points he might allude to, but the general opinion at which he had arrived was strongly in favour of Sheriff Spens's recommendation, that the areas should be greatly widened, so that they might have officials of something like independent position and unlikely to be biassed by local influence.

Mr. Hastings, M.P., President of the Council, desired to offer one or two observations on the main question of what an area for sanitary purposes should be. He should speak solely with reference to England. His strong conviction was that on the Public Health Act last passed there was one damaging blot—namely, the restriction in size of the areas for sanitary purposes. This observation only applied to a given number of urban authorities. In regard to large towns, no one would wish that the area should be increased, but he was speaking more especially of rural sanitary authorities. It was well known that, after a long discussion and after taking a great deal of evidence, the recommendation of the Royal Sanitary Commission in regard to the rural sanitary area was carried by only one vote in favour of the Board of Guardians. Almost one-half of the minority of that commission were in favour of the county area, and a county area had been the one recommended by the joint committee of this Association and of the British Medical Association. It had been recom-

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mended to Mr. Stansfeld, then President of the Local Government Board, by a numerous and very powerful deputation from the association, who on inexpugnable grounds implored him to make the county the area for all rural sanitary purposes. That representation was disregarded. The result of having made the union the area was that it was impossible for a rural sanitary authority to pay such a salary to their medical officers as could induce them to give up their private practice and devote themselves to sanitary work. In his own county (Worcestershire) the salaries paid varied from 100*l.* to 70*l.* a year, and, looking at the rateable value, he did not suppose the guardians would be satisfied to pay more. They could not expect a man of science and education and of social position to give up a very large part of his time for such a remuneration. He had always believed it was a vital error to arrange so that a sanitary officer must necessarily engage in private practice during the time he was also exercising his functions as medical officer. One objection to it was that sanitary matters in the present day were of such importance that they demanded not only all the time but all the energy of a medical officer; and if they compelled him to take private practice, they necessarily subtracted a large amount of time and energy from his official duties. Not only that, but sometimes the official duties would conflict with private interests and private practice. Therefore the principle of compelling a rural authority to employ as medical officers gentlemen necessarily engaged in private practice was vicious, and was one of the things the Legislature ought to endeavour to remedy. It was only by having large areas that they could arrange to give large salaries. In his county there were ten rural unions outside the boroughs. Those ten unions expended in the salaries of the medical officers between 800*l.* and 1,000*l.* a year, and if they included the salaries paid in the small towns they would reach upwards of 1,000*l.* a year for the whole county. For such a sum one man might give up the whole of his time and energy to the work, and, he thought, with the greatest possible advantage to the public; and with no serious burden upon himself, he might do the whole of the sanitary work for the county. This was a most important question, because no higher public duty could be imagined than the preservation of the public health. That was one of the questions involved in the matter of areas. The official position, education, intelligence, and influence of those who had to administer the Public Health Act were also matters of importance. To give the authority to small bodies, such as the guardians of rural unions, necessarily required them to work under difficulties; but if they gave the power into the hands of the county authorities, they would have the best men in the county ambitious to serve and emulous of each other's services in such a capacity. The first thing, therefore, which Parliament ought to do would be to retrace the unfortunate step which he had alluded to in the last Public Health Act, and to provide that the whole sanitary administration should be put on the basis of the county area instead of the union area. If that were done, they would at once see the whole system of sanitary administration raised from a lower to a higher level.

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In reply to Sheriff Spens, Mr. HASTINGS said he would give the sanitary administration to any county body that Parliament thought fit to entrust it to; and if a body of men was already found fit to levy the whole taxation of a county, to administer the whole justice of a county, to control the management of the Contagious Diseases (Animals) Acts, and manage the roads and bridges, he believed they would also be capable of managing the sanitary administration of the same area. But, in his own mind, he had no doubt that if Parliament did at once what was wise and expedient, it would provide an elective body for the purposes of county government, including sanitary administration.

Dr. RUSSELL (Edinburgh) observed that it was much easier to get amendments to Acts of Parliament than to get present Acts carried into force. Everyone conversant with these matters knew hundreds of instances where the local authorities did not carry out the powers contained in the Acts of Parliament. To carry out these powers they must have complete independence on the part of the persons charged with the executive. But the independence of a medical officer of health was not always secured by a large area when his appointment was by annual election, for he recently heard of a case where a medical officer felt compelled to bring an action against an ex-member of a local board in order to influence the electors favourably to his candidature at the next annual election. That was the condition of nearly all medical officers in large areas. In Edinburgh and Glasgow they had medical officers appointed *ad vitam aut culpam* under the local Acts, and therefore they were independent; but all matters that ought to come under their jurisdiction did not do so. A builder might draw a plan which more or less infringed on the health of the people, and, though he was bound to submit it to the Dean of Guild Court, he was not bound to submit it to the medical officer of health. He contended that such matters ought to come under the notice of the public officer who had had the best training in such subjects.

Dr. HARDESTY (Galashiels) remarked that one point had been omitted in regard to the inspection of new buildings, and that was in reference to the occupancy of damp houses—a prolific source of disease in the country. Local authorities would not take this matter up, because many of the members of local authorities were builders or landlords, and would do nothing that would prevent a house being let for six months. In regard to compulsory registration of disease, it was almost impossible to get local authorities to act in that matter at all, as they were influenced by the general practitioners, who, as a rule, opposed the medical officer of health to a man. If a medical officer was in general practice it was as much as his 'bread and butter' was worth to oppose the local authorities. He might go a certain length; but there he must stop, or he would be taking the bread out of his own mouth. He believed it would be necessary for Government to legislate on both these points.

Sheriff SPENS, in reply, said that he and Dr. Russell had been working together at Glasgow, in connection with the milk question, and, along with a committee appointed at a public meeting, he had

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prepared suggestions for an Act of Parliament (which suggestions were now before the Lord Advocate) relating to the milk supply, and giving the medical officer of a town the power of interdicting the supply if there was any reason to suppose it was infectious. In regard to infectious disorders in school children, he thought it absolutely necessary, now that education was compulsory, that children of infected houses should be kept away from school. Four years ago, when he published his book, he advocated a compulsory system of intimation of infectious disease upon every householder. That plan was carried out in Greenock in 1876, and what was good for one town ought to be adopted through the country. He advocated also that in certain special cases the skilled sanitary inspector whose appointment he suggested should have power to apply the remedy at once, without waiting for the orders of the superior authority. Relative to the suggestions that had been thrown out with regard to a Minister of Health, practically in England they had very much a Minister of Health in the President of the Local Government Board, who, though not always a Cabinet Minister, was one of the Government; and what he believed would be satisfactory would be that there should be this Minister of Health over the whole of England, Scotland, and Ireland; and that in Scotland there should be a Sanitary Inspector-General (as Resident Under-Secretary of the Department), to whom all reports relating to Scotland should be sent from the whole of the skilled sanitary inspectors and medical officers of health, so that the chief sanitary authority would be provided with all the information necessary. In regard to the employment of police constables as sanitary inspectors, he doubted the wisdom of that plan. Policemen should be kept to their criminal duties. If the police were sent over a county as sanitary inspectors, the theory was that they were armed with a certain measure of authority *qua* police—which they were not; and all along he had persistently objected to the appointment of policemen as sanitary inspectors. He had been very much struck with the remarks of the President of the Council (Mr. Hastings, M.P.). Though he had favoured large rural sanitary areas, he was perhaps hardly prepared to go so far as to say that each county should be entrusted with the administration of all health matters; but it was a view which he could not profess to have properly considered. Mr. Hastings' remarks, no doubt, pointed generally in the direction which sanitarians were all aiming at—viz., the necessity of wider areas, especially in regard to the great subjects of drainage and water supply. His theory was, to unite various parishes into one aggregate district, which should become the health area; but, if it was thought that the whole of the parishes in a county should be united for that purpose he should have no objection to such a system, if it could be worked efficiently, both for Scotland and England. Mr. Macleod seemed to think that nuisances ought to be dealt with by the local authorities; but he (the Sheriff) thought there would be less feeling if such matters were brought before the Sheriff, or some other judicial authority, than if the health authority were to be its own judge. For three years he had dealt with complaints under the Public Health Act in Glasgow in his official capacity, and had got through the various complaints with considerable rapidity. The Sheriff usually made a remit

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to an architect to inspect the premises complained of, and for an expense of 30s. or £2 2s. would get a report in a day or two, and the matter would be speedily remedied, except in cases involving large alterations, when delays, of course, might occur. He was as anxious as anyone to see the remedy applied rapidly, but did not think the course proposed by Mr. McLeod would be so satisfactory in working as the plan already in practice in Glasgow under the provisions of the Public Health Act.

The PRESIDENT (Dr. Beddoe) observed that Sheriff Spens's reply left little to be added. There had been considerable unanimity of opinion in the discussion. They seemed pretty well all agreed that the sanitary area should be enlarged; but whether it should be the county or some smaller area they had not quite decided. He had a Paper by Dr. Acland, of Oxford, showing that in England about £64,000 was paid to medical officers of health annually, beside the amounts paid by districts which did not, in that respect, accept Government aid. If that sum were judiciously divided among the counties it certainly ought to provide a sufficient number of competently educated, first-rate medical men, who should not practice, but should give their entire time to the work. It would appear that the sanitary laws of Scotland were considerably behind those of England, and the difference was pretty clearly seen in the rather high death-rate in Scotland compared with that of England. Again, the principal towns of Scotland appeared to have a less mortality than the towns next below them in population, where the administration was probably at fault. This pointed to the desirableness of bringing under control the rapidly growing suburbs of towns. On questions of detail, such as how far the matters of water supply and building should be under the control of the medical officer of health, there had been some difference of opinion; but, as to the desirableness of enlarging the area, he did not think there was any difference.

The following resolution, proposed by Professor Fraser, and seconded by Mr. Gowans, was, after a brief discussion as to its exact terms, adopted, viz.:—

That this meeting strongly recommend to the Council, that it should consider the question of the sanitary rural areas of Scotland, with a view to an amendment of the law by their extension.

SANITARY REGULATIONS OF BUILDINGS.

What is the best Mode of amending the present Laws with reference to Existing Buildings, and also of improving their Sanitary Condition so as to render them more Healthy, having due regard to Economical Considerations? By JAMES GOWANS, Convener of the Committee of Public Health of the City of Edinburgh.

THIS question is not one new to the writer. Seventeen years ago, when the Social Science Congress met in this city, the subject was under discussion, in consequence of a

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Paper then contributed by him, and which was an embodiment of the views which for many years previously he had brought under the attention of scientific bodies and the public at large.

Since that time much progress has been made. What were then considered theories, or even hobbies, have since been reduced to practice. In the present Paper, therefore, the writer will have to deal with the subject in a more limited way in one sense—although he may be enabled to throw new light on the subject from the experience he has had for several years as Convener of the Public Health Committee of the Town Council of this city. In this capacity he has had opportunities, which he did not formerly possess, of observing not only the evils resulting from bad laws in reference to sanitary arrangements, but also the best mode of effecting a cure.

It is a trite observation that 'public health is public wealth.' To be parsimonious on a subject of this kind is the very worst possible economy. No taxation ought to be grudged, and no scheme ought to be left untried, on the part of local authorities, to make the district under their control as free as possible from those polluting influences which engender disease. The difficulty, however, arises, how is this best to be done?

One sanitary authority, from an ardent desire to do its duty in this respect, expends its energies and large sums of money to effect it; but the drawback consists in this—that its good example is not perhaps followed by the neighbouring local authority. The result is, that infectious disease comes into the more healthy locality by means of contagion, and the carelessness of those in authority who have not adopted proper precautions necessary. It may be observed in this connection, that the very facilities for travel which now exist, in consequence of the development of the railway system, have tended powerfully to help this state of matters. The tramp who used to go along the high road, and perhaps fall down exhausted by the wayside while disease was lingering on him, is in an hour or so, by a small payment, carried right into the midst of a teeming population, where the contagion is rapidly developed, and this leads not only to enormous extra expenditure and vigilance on the part of the authorities, but to disease and death among the population.

Before considering how this difficulty is best to be met, the question naturally arises, What provision now exists for guiding public opinion on the subject?

The Dean of Guild Court in this city, as in some other towns in Scotland, exercises more than the old powers of the Ædile of ancient Rome. The functions of the Court seem

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principally to be to attend to the security of buildings. And it only indirectly and at pleasure touches the question of health. That is the direct duty of the local authority, viz., the Town Council and the burgh engineer, acting with the medical officer of health. By the Municipal and Police Act of last year, the burgh engineer has power to report to the Dean of Guild Court on the subject of the *ventilation, and other sanitary objects, of buildings old and new before* such plans can be passed by that Court. He should thus control the healthful conditions of the buildings in that city; and, in so far as Edinburgh is concerned, in point of requisite sanitary arrangements in buildings, it ought to be one of the best appointed cities in the kingdom, but the report or advice of the engineer unfortunately rests with the discretion of the Court. (*See* Notes.)

In addition to the powers already given to the local authority, there ought to be established, in my opinion, in our University a Chair of Architecture. By this arrangement, the position of an architect would be defined, which is not now the case. In the learned professions this status is maintained, and is of great value to the community. The legal profession are represented by the Faculty of Advocates, the Society of Writers to the Signet, and solicitors before the Supreme Courts; our medical men and others have their professional position defined, because they have had a systematic training through a course of years, and require to pass a proper examination, and so they occupy a position of responsibility which both they and the public perfectly understand. It is not so with those who in these days write themselves down 'Architect.' A young man, with a limited experience, and probably an imperfect education, is employed in a surveyor's office for a few years, and through the influence of friends he starts business on his own account and begins to draw plans, because he makes terms with clients to do so at reduced fees. The natural result is that, in many cases, the edifice proceeds, the sanitary arrangements being entirely neglected, and water-closets and baths, which ought to be *ventilated* and well *lighted* direct from the outside, are placed in the centre and darkest part of the structure, thereby necessitating the drainage passing under the building, which is one of the most dangerous and objectionable situations for a drain to be placed in. (*See* Notes.) We strongly urge that no man should be allowed to be employed as an architect, unless he has received his diploma under the same sanction as an ordinary medical practitioner, or has passed his examination as creditably and responsibly as a lawyer.

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Happily many of our architects can and do lead the public mind on sanitary subjects, and will not be diverted from a moral and intelligent purpose for the object of saving a little money to a speculator, who may have neither intelligence nor moral purpose. At the same time, it cannot be concealed that in the plans and drawings of houses much less care is given to the detail of what affects health than to the detail of purely secondary considerations, such as decoration and the like. The drawings of a building, which should all be registered and officially preserved, ought to show in detail the precise position of all pipes, if they cannot be seen, and the line and level of drains, as well as the position and connection of cisterns, for domestic and sanitary use. (*See* Notes at the end of the Paper.)

To illustrate our view of what is necessary to be shown in such cases, and to enter into the decision of any Court dealing with the plans of houses, we have had prepared a plan and section, which we now submit. (*See* Notes.)

Healthy and unhealthy houses individually, and in groups and districts, are perfectly well known to medical men, and in any legislation on the subject it would be matter for consideration whether these should not, in some unmistakable way, be specially distinguished. The effect of this would probably be to bring those who own houses to see it to be their interest to make them properly habitable.

In the selection of houses a cheap rent is often a great inducement, even to those who can afford to pay on a higher scale. But if this is done to the neglect of sanitary arrangements, it becomes foolish economy, as much more may have to be paid for doctors' bills than would have to be expended for better accommodation, apart from the suffering from ill-health and its consequences.

In the choosing of houses we are not so concerned for those who have the means, and ought to have the knowledge, to enable them to select a healthy residence. The class we are sorry for are those who, from limited means or other circumstances, cannot pick and choose, but must take what is offered them, whether healthy or no, and it is for their protection particularly that the Legislature should interfere.

The public, and a few of the well-to-do class of this city, have been driven in self-defence to adopt means to secure for themselves and their families healthy residences, and something like a Vigilance Committee has been organised by the energy of our townsman Professor Jenkin, whose experience as an engineer enables him to take the lead in such an important movement.

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With regard to this, the local authority had no jealous feeling, and as Convener of the Public Health Committee we had great pleasure in cordially co-operating with him; knowing this, that with a teeming poor population the officers of the local authority had enough to do. We leave to the professor to detail the success of a scheme of which he may be justly proud.

Buildings which are designed and erected in disregard of sanitary requirements, especially without ample ventilation and abundance of light, necessarily soon get actually diseased, as we know that hospitals do where even rigid care is taken to prevent it. Much of the ill-health that exists, and the deaths that occur from such houses, are often attributed to other causes than the real one, though the cause seems obvious enough. And it therefore would seem that the Legislature, which makes provision regarding unseaworthy ships, the protection of the lives of miners, and kindred subjects, should take action in a direction where it is not less but even more urgent.

Popular lectures on health, the value of healthy houses, and the observance of sanitary laws, should be encouraged, to enlighten the public or the poor as to these requisites, and the rising generation should be taught in all our public schools the laws of health. It fact, it ought to be embodied in the code which the Education Department enjoins on teachers of the young. Latin and Greek, or what is assumed to constitute what is called a secondary education, are not so important to the mass of the community as an elementary knowledge of how health is to be had and preserved.

The Public Health Act of 1867 was a step in the right direction, but it was intended to apply chiefly to small towns, and is largely permissive. And, therefore, the observation with which we set out, that one community may observe proper precautions, while another is permitted totally to neglect them, just enforces to a reasonable mind that the law should be uniform and binding in the most absolute sense.

We have pointed out in this Paper some of the radical flaws in our present system. Hitherto, advances in sanitary science in large cities have almost invariably been the result, not of precaution, but of the scare from time to time produced by some frightful visitation of contagious disease. Progress, therefore, has necessarily been spasmodic and unsatisfactory. At the present day the conditions of sanitary well-being are becoming better understood.

To give effect to the views which we have tried briefly to inculcate the following requisites appear to be necessary :—

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1. A code of public law on the subject of health applicable to the United Kingdom and compulsory throughout.

2. The appointment of a Minister of State for Public Health, with a seat in the Cabinet, to whom local authorities should be directly responsible for due administration of the law.

3. That no person other than an architect, qualified in the manner and under the responsibilities to which allusion has been made, should be permitted to submit plans to a Court.

The remainder of the question for this day's discussion refers to *due regard being had to economical considerations.* Of course, this must not be overlooked, but at present it is nearly the main consideration. For the most part houses are built on speculation, the leading idea in their construction not being how they may be safely occupied, but how they will sell at a profit. The wits of architects and builders are taxed to produce something apparently good that will bring a price, and everyone knows that to this comfort and life are freely sacrificed. On the economical side of the question, it may safely be trusted that sufficient safeguards will be provided by the Legislature. What is uppermost now is protection of life more than of builders' profits.

While this applies to new structures, where one would naturally expect to find ordinary sanitary arrangements, the difficulties increase when we have to deal with old tenements, such as abound in this city. Many of these houses were originally built for a different class of persons from those who now occupy them, or for other uses than they are now put to. Many of them were built when our modern system of water-closets, baths, &c., was unknown, and it is, indeed, a difficult, though not altogether unsurmountable, matter to overcome this defect. The tendency is, however, when such alterations are insisted on by the public authorities, to place the conveniences in the centre of the house instead of the outside, on the mistaken idea that any place is good enough for the purpose. This is a grievous mistake. Parliament ought, in our opinion, to step in and enact that no mere money considerations shall interfere to prevent proper sanitary appliances for the preservation of the public health.

Within the limits of this Paper I have refrained from a consideration of the higher aspects of this important question, and which alone should be sufficient to claim the earnest attention of Parliament. There can be no doubt that the *ill-constructed, ill-ventilated, and badly lighted houses* of our poorer classes drive them to courses which injuriously affect themselves, both morally and socially.

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(*Notes of Sanitary Provisions in the Edinburgh Municipal and Police Act*, 1879.)

THE General Police and Improvements (Scotland) Act of 1862, and the Public Health (Scotland) Act of 1867, do not provide for what is felt by experience to be needed in securing healthy houses for the community. The provisions they contain are left behind by the great progress that has been made in sanitary knowledge since they were enacted, and they rather stand in the way than help forward Local Authorities to procure what they think necessary in reforming their sanitary requirements; and, as an instance of this, the Edinburgh Act of last year was seriously maimed and mutilated so as to give effect to the General Police Act of 1862.

The Edinburgh Municipal and Police Act of 1879 goes much further, and under it we have ample powers to secure well-arranged and healthy houses.

For the erection of new houses the following are enactments:—

Sect. 159. That before a house can be erected or existing houses altered, plans and sections showing proposed line and level of drainage, &c. Every person who proposes to erect any new house or building, or to alter the structure of any existing house or building within the burgh, shall lodge with the Clerk of the Dean of Guild Court a petition for warrant so to do, and such petition shall set forth a description of the intended house or building or alteration, and shall be accompanied by a plan of the site, showing the immediately conterminous properties, and also the position and width of any street, court, foot pavement or footpath, from which the property has access or upon which it abuts; and also plans, sections, and such detailed drawings as are necessary to show the mode of structure and arrangement of the intended house or building or alteration, and the lines of the intended drainage thereof, and the levels thereof relatively to the street, court, foot pavement or footpath, and to the sewer or drain with which the soil pipes and drains of the property to be built or altered are intended to be connected; and in regard to any building intended as a place of public resort, such plans shall show the arrangements for ventilation and the provision intended to be made for ingress and egress; and all plans to be lodged as aforesaid shall be drawn to a scale of one and one half-inch to every ten feet; and such plans and sections, with such alterations thereon as may be made or after provided, shall be registered and indexed by the Clerk of the Dean of Guild Court; and the said plans and sections, and register and index, shall be open to inspection by any owner or ratepayer upon payment of a fee of one shilling.

Sect. 160. The burgh engineer has to report as to ventilation and other sanitary objects.

Sect. 161. Regulating existing buildings and taking means for proper ventilation.

Sect. 163. Open spaces to the rear of houses for light and ventilation.

Sect. 165. New houses must be inspected before occupation.

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Sect. 192. Power to have sewers ventilated.

Sect. 198. All drains, cesspools, &c., to be cleaned periodically.

Sect. 199. To remove cesspools or defective drains.

Sect. 200. Power to inspect houses, &c., during construction or alteration.

Sect. 201. Power to introduce water and water-closets, the position to be approved by the magistrates and Council.

Sect. 202. As to existing houses, the magistrates and Council have power to prevent water-closets from being ventilated into common stairs, and the same shall be done in such manner as they may direct.

Sect. 205. Waste pipes of cistern to be discharged into open spaces. And pipes connected with wash-hand basins, baths, and sinks to be discharged over a trapped grating before passing into a drain. The cistern of all culinary and domestic use to be placed where water shall not be contaminated, and the magistrates and Council have power to inspect waste pipes and cleansing of cisterns.

Sect. 206. If medical officer and burgh engineer certify to magistrates and Council that houses are unfit for human habitation, the same may be shut up.

Sect. 207. Notice to be given by medical practitioners of infectious diseases.

Sect. 209. Occupiers of dairies to give notice of infectious diseases in their premises.

Sect. 210. Upon medical officer's certificate, the sale of milk to be stopped.

Sect. 211. Milk brought from infected premises beyond the burgh may be stopped.

Sect. 212. Power to remove person with infectious disease to infirmary.

Sect. 217. Penalty on letting, without disinfection, houses in which infected persons have been lodging.

Sect. 228. Single apartments let as houses to be sufficiently lighted and ventilated.

Sect. 229. Fixing minimum cubic contents of small houses. A house of one apartment must at least contain 700 cubic feet. If of two apartments 1,200 cubic feet at least. If of three apartments 1,800 cubic feet. And each apartment shall have a separate window therein, and the cubic space shall be calculated free of all obstructions.

Sect. 232 provides for 300 cubic feet of space for a single person sleeping in.

The power under sect. 229, *though an enlargement of previous Edinburgh police law, is not so stringent as the requirements which Government exact for the lodgment of paupers and criminals.*

The cubic feet provided for in sect. 232 *is so obviously insufficient that it needs no other comment than that it should be amended. It should be added, however, that in clause* 228, *as well as in clause* 229, *it is enacted that every apartment occupied as a house, or part of a house, must have a window therein.*

Page 7.—Ventilation attempted by the use of a pipe passing from the ceiling of closets, &c., to the roof, is in many cases no ven-

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tilation at all, as such a pipe will supply air to the heated house, rather than draw off the vitiated air from it. A window to the outside is better, and by this means you get light as well as ventilation. The value of light as a sanitary agent is not appreciated as it ought to be. The windows should not be less than 4 feet by 2, as there is now no excuse for having small apertures as was the case when there was a tax upon light.

As to drains passing under buildings, if buildings are properly arranged and planned, there is no need for this to be done.

The drain should never go further than through the outer wall to receive the down-coming pipes from the closets above.

The sewage drain should be at the back of the house, instead of the front, and in the case of streets only passed from front to back at the lowest level in drains carefully sealed at the joints of the pipes, so that there can be no escape of dangerous gases into the house that is built over it.

Page 8.—In all houses, large or small, there should be separate cisterns for domestic and sanitary use. It is a mistake to suppose that there is no contamination of the water in the cistern if the w.c. is flushed with water leading from it. In flushing there is an instant when contaminated air has free vent to reach the water in the cistern, and this should be avoided by the use of separate cisterns.

On the Same.

By Professor Fleeming Jenkin, F.R.S.

WHAT is the best means of improving the sanitary condition of existing buildings, due regard being had to economical considerations? This is the question before the Congress, and it is one which imposes a duty upon the writer of explaining the action of an Association founded here at his suggestion in the spring of 1878. This Association has for its object precisely that indicated in the above question, and we may boast that it has in a certain area obtained real success, and might with advantage be imitated and extended.

The writer is far from asserting that associations of this kind can remedy all sanitary evils in all buildings, nor will he even contend that the work actually done by the Sanitary Protection Association may not be carried out in other ways. His thesis simply is, that the Association affords one means of remedying important evils existing in a large class of houses.

Before entering into any argument as to the merits of this Association, it is in the first place necessary as briefly as possible to describe its constitution and functions. The Association in Edinburgh consists of about 500 members, each of

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whom pays an annual subscription, usually one guinea. The affairs of the Association are managed by a council selected by the members. The practical work is done by a secretary, one or more engineers, and a consulting engineer. These three offices are at present held by Captain Douglas, Mr. Alex. Welsh, and the writer. A person wishing to become a member of the Sanitary Protection Association calls on the secretary, or writes to him, stating the nature of the premises in respect of which he wishes to subscribe, and where these are situated. The secretary answers naming the subscription. This subscription is never less than one guinea per annum. It is never more than one guinea for any ordinary dwelling-house situated in Edinburgh. If, however, the premises, instead of being a dwelling-house, are some larger building—such as a hospital, a bank, or an hotel—the terms of the subscription are necessarily higher; they are then settled by the secretary subject to the approval of the council. If the premises are not situated in Edinburgh, the terms are a matter of special agreement, but they are never very high. Thus the Association has accepted the sanitary supervision of two of the largest bank buildings and some of the smaller hospitals at rates varying from four to two guineas per annum; while in the country, houses have been inspected not only in adjacent counties, but in the more remote ones of Argyle, Inverness, Banff, and Forfar. In these cases the terms charged for the inspection are at the rate of two guineas a day during the absence of the inspecting engineer from head-quarters, and his travelling expenses.

When the member proposes that several premises should be examined and reported on, a separate subscription is asked in respect of each building.

It has been found possible to accept as members, at the rate of one guinea, persons resident in St. Andrews, inasmuch as upwards of fifty members joined from that town. Other towns, at no greater distance from Edinburgh, might secure the benefits of the Association at an equally low rate, if they could guarantee in any one locality at least fifty members.

When the intending member has learnt the terms of subscription, with any other particulars he may require, he signifies his intention of joining the Association. He incurs thereby no other liability than that of his first year's subscription. At the same time, if he wishes to secure the full benefits of the system, he will join with the object of remaining a permanent member, paying a subscription year after year. He is, however, free at any moment to quit the Association.

When the new member has joined, the secretary inquires

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the day or date at which it will be most convenient for him to have his premises inspected. New members usually wish for an immediate inspection; we have, or had, however, some members who pay their guinea from a conviction of the general utility of the Association, and dispense with any examination of their houses.

When the date of inspection arrives, the engineer of the Association examines the premises very thoroughly. It is desirable that the plumber usually employed in the house should meet the engineer. Sometimes the mason who has built the drains is also asked to be present. The engineer takes notes, by the aid of which he prepares a diagram, showing every water pipe and drain in the house, with their connections, traps, outfalls, overflows, and cisterns. He examines the condition of the system of pipes as far as is possible without disturbing the paneling or the floors. In many cases, if smells are complained of, portions of the floors or ground are opened up after a preliminary visit; this allows his inspection to be more thorough.

The engineer next prepares a report on the condition of the premises. This report contains the diagram already referred to, with a general description of the sanitary appliances in the house and its immediate neighbourhood. The report concludes by a series of specific and detailed recommendations. These are sometimes extremely numerous, sometimes insignificant, and in a very few cases no improvement can be suggested. The recommendations made are as far as possible classified so that the owner of the house may judge what is most important and what is less important, in case he does not care to be at the expense of carrying out the whole series. The grounds of the recommendations are explained both in writing and verbally if required. The following is a sample of the final recommendations made in one case. It is taken almost at hazard from a report made on a house in Edinburgh:—

"Recommendations as to the improvement of the drainage of a house inspected on October 28, 1878.

"1. Disconnection from the main sewer by means of a system of double trap, open channel, and built manhole.

"2. The ventilation of a long branch pipe connected with a sink, by a pipe of three inches in diameter.

"3. The soil pipe to be entirely reserved for W.C. discharge, to join the drain untrapped, and to be carried up until clear of the wall head of a diameter of not less than three inches.

"4. The new clean-water down pipes to be open at both ends and discharge openly.

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"5. The scullery sink to discharge into an open trap.

"6. The washtubs to discharge into an open trap."

A complete preliminary report on another house is appended. (*See* Appendix to this Paper.)

In cases where the engineer thinks it desirable, he recommends that the pipes or drains should be more fully opened out, so that he may make a second and more satisfactory inspection.

Sanitary reformers may perhaps think that this thorough opening-up of every pipe should accompany every inspection; but the Association is mindful of the prudent words used in the question now before the Section, and has 'due regard to economical considerations.' When, therefore, there is no reason whatsoever to suspect defects of construction or material, the Association does not recommend that expensive and troublesome investigations should be made, involving breaking through plaster, tearing up boards, and so forth. These things must not be shirked when necessary, but very important information can be secured without this annoyance and expense. The report of the engineer invariably includes a recommendation to the effect that apparatus should be adopted which will hereafter allow practical tests to be made of the condition of the piping in the house and near the house. These practical tests are such as allow us to make sure—(1) that all foul liquids have a free passage from the house; (2) that there is no leakage from the drains under the house into the subsoil; (3) that the whole series of drain-pipes in the house are gas-tight; (4) that the water-traps are in action.

The first fact is ascertained by ocular inspection at an opening constructed for the purpose.

The second point is ascertained by testing whether the pipe will hold water without leakage when dammed up at the other end. (Few old drains will stand or even admit of this test.)

The third and fourth tests are made by introducing paraffin into the drain system, and testing, by the nose, whether any fumes penetrate the house.

These practical tests can sometimes be made even at the first inspection; with the exception of the second they can always be made after the alterations recommended have been carried out.

The recommendations of the engineer are made after consultation with the occupier. Due regard is therefore had to the wishes and means of the member. Certain general principles guide the engineer, and these are laid down after consultation with the consulting engineer, but the reports would lose

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a great part of their value unless this attention could be given to what may be called the personal conditions of each case.

When the member receives his report, he is expected to inform the secretary whether he intends to carry out the whole or any of the recommendations. He is absolutely free to act in this matter as he pleases. The reports are strictly confidential.

If the member, as usually happens, determines to carry out some or all of the recommendations, the work is superintended by the engineer of the Association. The work is executed by any plumbers or masons whom the member may choose to employ. It has been found by experience that the superintendence of the engineer is by no means superfluous, even when the best tradesmen are employed. Workmen from ignorance, and sometimes from a mistaken zeal in the supposed interest of their employers, commit acts which the contractors themselves would certainly not sanction. One amusing case happened in Edinburgh. A long drain was to be tested by being filled with water and left full; the rate of leakage would then be shown by the rate at which the level of the water at the upper end fell. The workman stopped up the lower end, as he was bound to do; but he also inserted a plug of clay two yards from the upper end, so that instead of a hundred yards of pipe being filled with water only two yards were filled. The test of course gave apparently excellent results. When the trick was found out the workman was not ashamed of himself, nor did the employer seem to think he had been much to blame, especially as there was nothing in the execution of the work on this occasion which necessitated the employment of deceit. This cannot always be said. Undoubtedly the knowledge that work will be inspected and tested has a very healthy tendency.

If it be admitted that the engineers of the Association understand their business, it follows that a member of the Association who carries out the recommendations of the report may count on having his water-supply and the drainage-system in his house put in excellent order. It is not for the writer to praise the *personnel* of the Association; he will only say that the principles of sanitary science are now sufficiently well known to render it possible for any engineer of fair education to master and apply them with confidence. No doubt there are still points on which the profession are not all of one mind; but, on the other hand, there exists a long series of propositions, concerning which no rational engineer can entertain a doubt. What is chiefly required from the sanitary

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engineer is common sense in applying those principles to special cases, care in superintending the execution of work, and absolute freedom from pecuniary interest as a manufacturer.

It would be too much to say that no sanitary adviser should ever have an interest in any sanitary patent, but in appointing an engineer a council would rightly prefer men who were not patentees.

It will be seen that by payment of a single guinea the member obtains a careful report on his house, drawn up on principles determined by an engineer of position. In case of doubt the report is referred to the consulting engineer, and his name ought to be such as will command respect from any tribunal. Moreover, the member secures superintendence of work executed in his house.

The amount of work which this entails could not be provided for a single guinea. The permanent success of the Association at this rate of subscription depends on the fidelity of its members. Those who are well satisfied with the assistance they have received are, to some extent, morally bound to remain members for a few years. If they understand their own interests they will certainly not leave the Association, having once joined it. No doubt, the first report which they receive, and the superintendence of the consequent works, is the best guinea's worth which the Association has to give; but it cannot be too much impressed upon the public mind that the best executed works are certain to decay in time, and that the complicated network of pipes with which these houses are filled is liable to accidental derangement. Nothing but continual superintendence can secure the householder from danger due to defects in sanitary appliances. The case of a steam boiler is exactly analogous. Let a perfect boiler be bought from a first-rate maker; the owner has then an apparatus as perfect as we endeavour to make the sanitary appliances in his house. But in the course of time the boiler must decay. The prudent proprietor, therefore, joins a steam-boiler association, which from time to time examines his boiler, and by the tests which it applies is able to give an almost absolute guarantee against accidents. This idea of inspection by an association is due to Sir William Fairbairn, under whom the author had the honour of serving his apprenticeship. The same idea applies to the sanitary system of a house. The prudent houseowner has this system tested from time to time, and he secures cheapness and efficiency by using the principle of co-operation.

The member, then, who pays his second year's subscription

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receives a fresh visit from the engineer, who proceeds by the practical methods already described to test experimentally whether all is in order. The public is as yet ignorant that this experimental test is in actual use. One of the great benefits which a Congress such as the present renders is to diffuse information on such points as these among a public which never reads technical journals or scientific reports.

The annual experimental inspection is the normal and principal business of the Association. The necessity for this inspection is one of the points on which all leading sanitary authorities are agreed. It is, perhaps, the point concerning which the public is least informed.

The officers of the Association give information and advice on any subsidiary points, such as ventilation, heating, the condition of water, and of filters. When, however, an actual analysis of water is necessary an extra charge is made.

In what precedes nothing has been said as to special arrangements of pipes, drains, &c., required to make and keep a house healthy. These things are fully described and discussed in many practical books; but the ordinary householder cannot study these to any great practical advantage; he requires professional assistance, and the aim of the Association is to give him professional assistance which shall at once be above suspicion, and be obtained with 'due regard to economical considerations.'

These 'economical considerations' constitute a great difficulty in the way of the sanitary reformer. We may assert that our Association provides at least one solution by which good reports can be cheaply obtained, but those reports almost invariably entail considerable expenditure whenever serious evils are to be remedied. The simple guinea paid to the Association need deter no proprietor from joining; but it would be disingenuous to conceal the fact that this first guinea may lead to the expenditure in the first year of twenty, fifty, or even a hundred guineas.

It is, however, for the member to judge, on receiving the report and accompanying explanations, whether his money will be wisely spent. In Edinburgh the proprietor of a house rarely shirks the execution of really necessary work, when he himself occupies the house.

When, however, our member is a simple tenant, cases undoubtedly occur where the proprietor declines to carry out the work recommended. Our reports carry no legal obligation with them. The question then arises whether the tenant will himself execute the necessary works. We find that a tenant will

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often run no inconsiderable risk rather than permanently benefit his landlord as well as himself by improving the sanitary condition of the house. There is no doubt here a confusion of ideas. A tenant admits the danger, says he would at once execute the works, costing say twenty pounds, if the house were his own; but goes on to say that he does not see why he should spend twenty pounds in improving another man's property. Once this false turn in the argument has been taken, it seems quite in vain to urge that the twenty pounds will really benefit the tenant by securing him against disease in his family, doctors' bills, and so forth. The tenant grants all this, but returns to his statement that it would be a permanent benefit to his landlord, and he and all his family will die sooner than benefit the landlord. One tenant did die, so far as we can judge, from causes due to drains, which he would not repair, because he considered this to be the landlord's work.

The fact that in Edinburgh a large proportion of the houses are owned by their occupiers has had a great influence on the success of the Association.

The experience of upwards of two years enables us very clearly to see both what the Association can and what it cannot do. It has enabled and induced the owners of a very considerable number of houses to put these into good sanitary condition. It enables the proprietors of these improved houses, and of others built under good sanitary conditions, to maintain their sanitary excellence. It enables the purchaser of a house or an intending tenant, to obtain a report on the sanitation of the premises at a very low rate; and in this way it tends to raise the sanitary condition even of houses which are not occupied by their owners. A landlord, when a new lease is in question, is much more amenable to pressure than at other times, and this fact will enable associations to flourish in growing towns even where tenancy is the rule. The tenant has no objection to pay the guinea for annual supervision; he simply objects to the first outlay on improvements. If, by virtue of amended laws, many of which are already in force here, all new buildings are satisfactorily designed and constructed, and if, as seems not unlikely, a large proportion of the older buildings under the influence of the Association and the laws, are also brought into a satisfactory state, the Association will not perish from want of work; but, on the contrary, will afford that permanent supervision which, in the writer's view, is its main object.

The point where the Association fails, and apparently must fail, to effect much good, is in dealing with the poorer class of buildings. This has been a great disappointment to the writer.

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He hoped that charity and public spirit would have used the Association to obtain reports on poor tenements, and to remedy the most glaring evils. In his opinion there is no more legitimate act of charity than that of providing a new drain or a ventilating window; but he is met by an argument analogous to that used by wealthy tenants—'If I mend a drain, or improve a window, in a poor lodging-house, I benefit the poor occupier no doubt, but I benefit the landlord also; he will simply raise the rent.'

There is truth in this; but the charitable might occasionally act in defiance of political economy, for the sake of certainly preventing fever. Coming to a superior class of houses —those occupied by artisans and the poorer tradesmen, by persons who are in no want, but are not rich enough to pay their guinea—these houses also fall outside the benefits of the Association.

The Association, therefore, has been of substantial benefit to the well-to-do, but leaves a large area of the city untouched.

When, however, we have shown that it is practically possible, at very moderate cost, to superintend the sanitary appliances of large numbers of houses; when we have introduced practical methods of testing the condition of drains and pipes into common usage, we shall have very materially strengthened the hands of those who contend that this work ought to be done, and can be done, by municipal authority.

When we have shown that the richer members of the community can secure an immunity from disease by simple means, which are nevertheless out of the reach of the majority, we shall have given an excellent argument to that majority for insisting that by means of taxation their houses shall also enjoy the benefit of systematic supervision. Wherever water-closets are used, nothing but systematic supervision, extended to the interior of the buildings, can secure the healthy condition of the town. When the Association was established, the only opposition met with came from persons who, contending that public authority should deal with this question, imagined that the Association would work in antagonism to this idea. They showed the courage of their convictions, for they admitted that for a long time to come the authorities would not deal with the question; they insisted that the risk they ran was very great, and clamoured for public interference. But they would run all risks rather than pay a guinea to be rightly supervised by the wrong parties. These gentlemen need have no such scruples. When public permanent superintendence is established the Association will either cease to exist, or, if it con-

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tinue to exist, it will do so in virtue of doing more or better work than is done by the public authorities. Meanwhile its existence as a voluntary association constitutes an actual progress towards the universal establishment of inspection.

The other arguments used against the Association were these:—1. No one knew anything about sanitary science. There is no answer to that. 2. We could not do good work at the price charged. Time has answered that; our members think we do good work. 3. We should clash with the municipal authorities. Time has answered that. We are on the best of terms with the municipal authorities and their officers. 4. No one would carry out the recommendations which we made. They are carried out. 5. We should provoke the hostility of the plumbers, masons, and builders. There was at first some little distrust in this quarter, but this vanished after a very short experience. Inspection benefits the best workmen and the best tradesmen. 6. We should cause law-suits. Nothing of the kind has happened. The Association has worked with absolute smoothness. 7. Our existence as an Association would injure the city by implying that its sanitary condition was unsatisfactory. No doubt the supervision it affords is even more important where the town drainage is defective, but every argument used in its favour by the officers or promoters of the Association would apply to a town in which the public drainage was the most perfect yet known. The Association is certainly no more required in Edinburgh than in all other large towns.

Experience, therefore, justifies us in saying that the Sanitary Protection Association does, with due regard to economic considerations, secure an improvement in the sanitary condition of an important class of buildings. This class includes schools, banks, hospitals, hotels, and chambers. The question, however, still remains—whether for this class an association of this kind gives the best means of attaining these results. The same evils may be dealt with in two other ways:

1. Independent engineers, surveyors, or tradesmen may be consulted singly by the occupiers or owners of houses.

2. Inspection might be rendered compulsory. This inspection would then be carried out by officers appointed by some competent authority, such as the medical officer of health. To the first of these means no objection can be taken, provided engineers of sufficiently good standing can be induced to undertake work of this kind at rates similar to those charged by the Sanitary Protection Association. The writer has seen with great satisfaction that engineers of good position are in

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some places willing to act in this way for reasonable fees. The fees, which in the Sanitary Protection Association are divided among three officials at least, might all go into the pockets of one engineer; and the writer cordially recommends this career to young members of the profession in localities where their character and ability are known.

The advantages which an association has over an individual are these. The association by its council, which is necessarily composed of leading men, gives a guarantee to the members that the officials employed have been carefully selected, and themselves work under supervision. Every householder in this town knows the names of the gentlemen comprising our council. Few of them could possibly have known the merits of our engineer, Mr. Welsh. The intending member has, however, the guarantee that Mr. Welsh has been selected by competent men, and works under their eyes.

Moreover, an association with a consulting engineer obtains for its members the benefit of the supervision of a member of the engineering profession of higher standing than any one who up to the present time would take one or even two-guinea fees for work of this kind. The fact that the recommendations of the Association can, when desired, be revised and signed by one of the older members of the profession is a real and important advantage.

Again, the very existence of the Association is a means of advertising the fact that superintendence of the kind described is desirable and attainable. The advertisement of an individual is always liable to be treated as an interested document. Last and not least, the presence of a secretary to answer all general questions and make arrangements which are convenient to the members, has certainly been found very advantageous in Edinburgh.

It will hardly be contended in this town that members of the engineering profession, acting individually, would have been as successful as the Association has been in inducing house-occupiers to come under supervision.

Some few people contend that a good plumber can give all the advice needed. The plumber is a contractor or manufacturer. Engineers have a rooted conviction that the best and worst of contractors, even such men as the late Mr. Brassey, work best under good supervision.

Coming to the question of compulsory inspection, in the writer's opinion this is the only means of grappling with the sanitary condition of a town as a whole. The principle has already been fully applied to new houses, and from its working in

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the one case we may judge how the inspection would work if permanently applied to all buildings. First, we may observe that the opposition of the owners of the poorer class of buildings would reduce the legislative enactments to a minimum. No law will be passed for many generations which would *compel* all houseowners to put all their houses into the *best possible* condition. The law must be content with forbidding that which is manifestly and excessively injurious.

If the law went further and prescribed real excellence, the tax thus imposed on properties would be treated as equivalent to confiscation. Thus, in this town there are a great number of common stairs; numbers of water-closets open on to these common stairs, and have no other means of ventilation. The sum required to put all these common stairs and closets into such a condition as would satisfy even a mild sanitary reformer could not possibly be exacted from the owners, and will certainly not be voted by the town. Nevertheless, compulsory inspection, even such as already exists, tends to mitigate the evil, accompanied as that inspection must be by the power of ordering alterations to be made.

Compulsory inspection will, however, for a long while to come, fail to perform the functions of the Sanitary Protection Association. The inspector, who has just come from a house in the Canongate, must apply the same principles in Moray Place. What he permits in the one house he must permit in the other; but the occupier in Moray Place will not be satisfied, and ought not to be satisfied, with the mere minimum which the inspector is entitled to enforce upon a lodging-house keeper in the Canongate. It is for this reason that the author thinks the Sanitary Protection Association will continue to flourish even after compulsory inspection has been greatly extended.

The machinery for effecting this compulsory inspection already exists. The medical officer of health with his staff of engineers and inspectors are on the spot. The writer would give this official more extended duties and new powers. It should be their duty annually to ascertain—

1. That the drains of every house in the town really communicated with the main sewers.

2. That a really efficient trap separated each house from the sewers.

3. That the water supply of each house remained in such a state as to be free from all suspicion of contamination from sewage.

4. That the system of internal drain-pipes was in each house gas-tight, and remained so year after year.

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If these provisions formed part of the law they would entail a considerable, but by no means ruinous, increase of the medical officer's staff. They would, however, in the first years throw a large charge on the owners of the poorer and older class of tenements.

Meanwhile, all who can afford to pay a guinea a year can take the law into their own hands. It has been a matter of some surprise that the successful experiment made in Edinburgh has not been widely followed. One similar association exists in Newport, U.S.A.; but although numerous inquiries are made from English and Scotch towns, no second society has so far been formed in Great Britain. Perhaps, in Scotland the most natural mode of development would be that of affiliation to the Edinburgh society, after the manner followed in St. Andrews. The writer takes this opportunity of stating that he would gladly lecture in any town on the subject, explaining the mode of action of the society.

It was expected that hotel-keepers and persons letting furnished apartments would have made considerable use of the Association. This has not as yet been the case. We expected that a clean certificate from the Association would have been largely used as an advertisement. Travellers and visitors could afford us substantial support by asking whether the premises had been inspected, and going by preference where the Association had given a favourable report. They would in this way escape a real danger.

In conclusion, the writer has to beg for the indulgence of the Section if he has dwelt at too great length on an Association which cannot pretend to supply a complete panacea for existing sanitary evils in all classes of tenements. The excuse must be that the Paper contains the record of facts and good results attained by novel means. Other means and further results are desirable, but our Association has at least done some good.

APPENDIX.

(*Specimen Report.*)

SANITARY PROTECTION ASSOCIATION:
8 South Charlotte Street, Edinburgh, July 22, 1880.

SIR,—I have to-day visited and inspected your house No. . . . . with reference to its drainage and water storage arrangements, and annex a rough sketch plan showing the present system as accurately as I have been able to ascertain it, and beg leave to submit the following report for your consideration.

The larger portion of this report treats exclusively of the design of the system, but there are the following points connected with defective

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repair or workmanship to which it is also necessary to direct your attention. The waste-pipe from the scullery sink is insecurely connected with the drain in such a way as to leave a direct communication between the interior of the house and the inside of the drain. The junction between the main soil-pipe and the drain—which, however, takes place in the open air—is broken, the lowest length of soil-pipe is cracked, and some suspicion attaches to the security of the next joint on the drain. The surface water trap in the wash-house was not only rendered inoperative by the drying up of the very limited quantity of water which it is constructed to retain, but it was so insecurely connected with the drain as to render it useless, even if it contained water. This latter defect I took advantage of to have the trap taken out, and thus obtained some little insight into the course of the drains.

The house appears to be drained by means of a properly glazed fireclay pipe system of drains communicating with a main sewer to the front, but the absolute state of these drains is uncertain. The defects mentioned above cause suspicions to be entertained, and these suspicions are strengthened by the floor being somewhat damp: while on the other hand the drains are found to be perfectly clean at the point where access was obtained to it in the wash-house, and the dampness in the lobby may simply result from the high ground in front. A much better opportunity of examining into the state of the drain would be afforded if several of the suggestions which I have to make on other grounds are carried out, and of this opportunity I would be happy to avail myself.

Whether or not any disconnecting trap exists on the main sewer is an uncertain point; but if there is, it must undoubtedly be of some entirely closed form, neither effecting thorough isolation nor yet affording means of access for cleansing or inspection. It would be much better to have a system of double trap, open channel, and built man-hole introduced (*vide* Fig. I.), thus securing thoroughly efficient disconnection and great facility of access. This operation would from the depth of the drain be attended by a very considerable amount of work, but the benefits which would thereby be secured can hardly be overrated.

All the water-closets in use are of the ordinary 'pan' description, which, though in very general use, possess the obvious defect of retaining filth within their working parts. As, however, the removal of all these water-closets would be a very serious matter, and since, as already mentioned, they are the water-closets in general use, I merely direct attention to the defect which they have, and to the fact that there are many better forms in the market.

The two upper floor water-closets communicate with the drain by means of an outside vertical iron pipe, which has also been made to receive the discharge from two sinks and a bath, as well as to do duty as a rain-pipe. Its action as a rain-pipe impedes greatly the freedom of ventilation during heavy showers, and at all times causes ventilation to take place somewhat objectionably close to the eaves. It is now a generally acknowledged principle that sinks and baths should not communicate with the water-closet piping, but should be entirely disconnected from this class of piping, and made to discharge openly into an

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open trap placed outside. It would, therefore, be much better to have the present water-closet soil-pipe entirely reserved for the water-closet discharge, and ventilated by being carried up of its full diameter till quite clear of the roof. A second pipe would then have to be introduced to receive the rain-water and the discharge from the sinks and baths. This second pipe should be open at both ends, the lower end terminating in an open trap (*vide* Fig. II.), and should receive the discharge from the bath and sinks by trapped branches. A still further improvement would be effected were a 3½-inch pipe taken from the drain, carried clear of the roof, and connected in passing by means of 3-inch branches with the highest points of the water-closet branch.

The principle of disconnection by means of an open discharge is the most efficient known, and ought not only to be adopted in the case of the upper floor sinks and bath, but also in the case of the scullery sink and washtubs, and the surface-water trap in the wash-house floor, should it be retained (*vide* Fig. III.). This surface trap should either be completely removed, or should be protected by a fireclay trap placed beneath, and made to discharge into an open trap placed outside.

Another obvious defect is the free communication between the water-closet apartments, those containing the bath and pantry sink, and those through which the pipe chase passes.

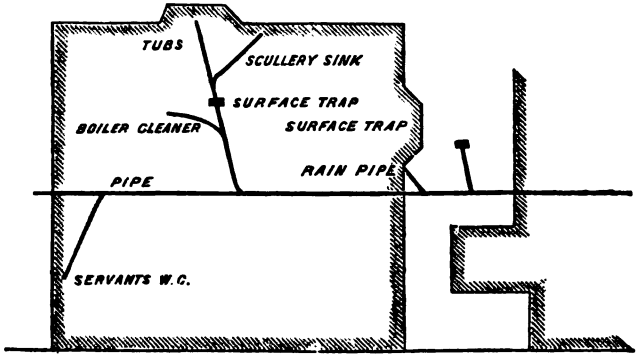
A considerably improved system of drainage could undoubtedly be obtained were an outlet to the back or south-east side secured.

The water storage system consists of two cisterns, both of which are situated over water-closets, and one of which is reached from the water-closet apartment. They both, however, overflow openly, and although they both supply water-closets, they do this in the least objectionable of the two common ways.

The bath is supplied in a somewhat objectionable manner, since the clean water enters at the same opening as the dirty water is drawn off through, and dirt is frequently returned.

Should you desire any further information, or should you intend carrying out any of these improvements, please communicate with the Secretary of the Association. (Signed) A. Welsh.

[*True copy.*] C. Douglas, Secretary.



Plan of Present System.

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Section of Present System.

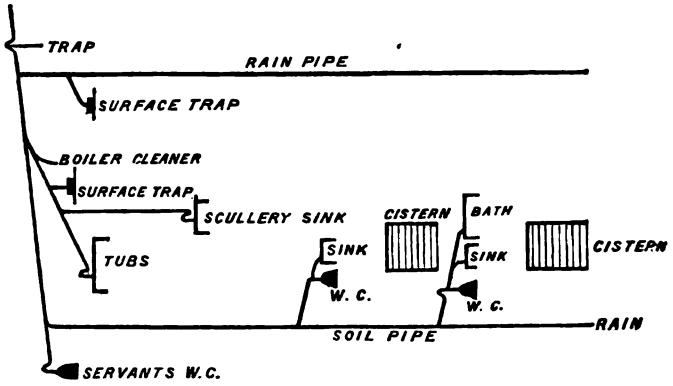
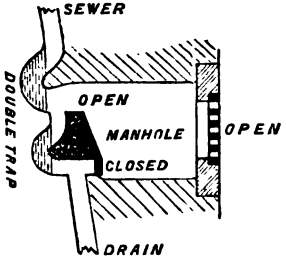


FIG. I.



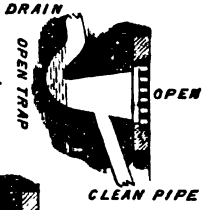


FIG. II.

FIG. III.

This house is drained into a main sewer passing to the back of the house by means of a system of properly glazed fireclay spigot and faucet pipe drains, and is disconnected from the main sewer by a common single trap. The connections are: (1) front area surface water-trap; (2) front rain-pipe; (3) scullery sink by means of a separate inside unventilated soil-pipe; (4) surface water-trap in wash-house floor; (5) washtubs; (6) soil and rain-pipe outside from two water-closets on the upper floors, pantry sink, and top floor sink and bath; (7) servants' water-closet.

Water Storage.—A cistern on the dining-room floor supplies cold water to all conveniences below it, while a cistern at the top of the house supplies all else in the house. Both cisterns overflow openly.

DISCUSSION.

Sir ROBERT CHRISTISON, Bart., M.D.: I have great pleasure in commencing this discussion, because, as President of the Edinburgh Sanitary Association, I know the working of it since it was first instituted. I have to bear testimony to the exceeding energy and exactitude

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with which the whole business has been carried on under the jurisdiction of Professor Fleeming Jenkin at the head of it, and a few young engineers, of whom he has the control. The gross errors which have been detected, and the numberless observations which have been made, have greatly surprised me. But let me tell you what happened in my own instance, because that will give you a very good idea of the great advantage of having such an Association as this. When I first took my house in Moray Place, which was one of the first houses in the town at the time, I found there were errors as I conceived; but they were believed to have been put to rights by the builders of the time, in 1847. However, I had not been long in the house before I was not quite satisfied with the arrangements. But nothing was done, I think, till about ten years ago, when the whole drainage and the water supply were fully gone through, unluckily during a time when I was away and could not superintend the matter myself. It was not long before I had the impression that all was not quite satisfactory, but I left things alone, not knowing any easy way to correct what was wrong, till the Association of Professor Fleeming Jenkin was formed. My house was one of the first examined. Various errors were found, and considerable expense was necessary to correct them; but, as Professor Fleeming Jenkin knows, they were all corrected. I have merely to say that it is now two full years since that correction was made, and I have every reason to be completely satisfied with every branch of what was then accomplished. I may mention a curious fact in illustration of the advantage which has accrued. We all know the great difficulty in managing water-closets in Edinburgh. I had great difficulty with mine. I found on the second occasion when I thought everything was put to rights, that in the course of two months, the basins of the water-closets were as black as they were before they were renewed. But now, two years after the last change was made, the tin basins are as bright as they were at first. Now any one who is in the least acquainted with sewage and chemistry must know that here you have just as correct a test of the accuracy of that part of the engineering of a house as it is possible to obtain. My surprise is great that, after what has been shown of the advantages of the Association, instead of having 500 contributors we have not 5,000 in the town; because I hold that every house whatever ought to be subjected to such an investigation, and I am very much surprised that any man should inhabit a house—after all that has been said about the imperfect arrangement of water-closets and water-pipes—in ignorance of its condition in these respects. So much, then, with regard to Professor Jenkin's Paper, which I hope will be sown broadcast throughout the country, and will be the means of getting other towns to follow the example which he has persuaded Edinburgh to begin. In regard to the Paper of Mr. Gowans, it contained a number of most important suggestions, which, coming from a man of his experience and intelligence, are entitled to the greatest respect from this Association. What I wish to ask is this: Whether in the course of his observations upon the laws regarding building, any reference was made to the municipal law which regulated the relative

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height of houses to the width of the street? and whether I am wrong in stating that, under the present municipal law, buildings may be erected so high as one-half more than the width of the street in which they are placed, so that if a street is forty feet wide a proprietor may actually have the power of raising his house to a height of sixty feet? Now consider what this means. If you will go to the South Bridge here you will have some idea of the effect. When I knew South Bridge first it was a handsome street. But under this regulation the proprietors have all successively raised their walls a full story all along the street on both sides, and sometimes rather more; so that now we have lofty houses on both sides, and a narrow, dingy, ill-lighted and ill-ventilated, lane-like street. Now I say this ought not to be allowed. It is a great error to allow any street to be so constructed. The rule ought to be quite the reverse, the street being one-half wider than the houses are high. I wish Mr. Gowans to take this into consideration, because there is no better judge of what ought to be the rule in this respect.

Mr. Gowans, in reply, said there was power, in Edinburgh, under clause 129 of the Act, that no house or building in any existing street should be increased in height more than one and a half times the width of the street or court, without the sanction of the magistrates in council. In the Old Town if a building was taken down and re-erected it would come under control by that clause.

Dr. Wallace (Greenock) said the towns in the west of Scotland were equally bad, if not worse, than those referred to by Mr. Gowans. Some years ago he was consulted by the inspector of nuisances as to the system of ventilating closets. The local authority had no power to order any particular change. He made a strong recommendation to the Dean of Guild Court not to sanction the erection of any building that did not provide for a thorough and efficient ventilation of the closets. The Dean of Guild Court, in his quarter, being composed too much of speculative builders, who had their own ideas of house construction, declined his suggestion that closets should in no case be built within the centre of the building. But since they had got a new Act a considerable change had been effected in that respect. The difficulty, however, still existed in reference to old buildings, which could only be put in proper sanitary condition by being pulled down altogether; but medical officers always experienced difficulty in getting such buildings condemned when the proprietors depended for their livelihood upon the rents which they had inherited. When appointed medical officer of health he caused careful inquiry to be made with the view of introducing the provisions of the Artisans' Dwellings Act, and he got a provisional order, but the cost was greater than expected; but he had little doubt the local authority would see that the houses built were conducive to the health of those who would inhabit them.

Dr. Alexander Wood (Edinburgh) said that it was now nearly forty years since he had been chairman of the Public Health Committee of the Police Commission of Edinburgh, and in time past he had experienced much ridicule for publishing in their name a report

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still extant, which, *inter alia*, remarked that a good deal of disease was propagated through the milk from the cow, and that small lyres should be licensed. These subjects were therefore not new to him. He had lived to find that doctrine now accepted. He thought people too often sought legislation; there was too great a tendency to call on Parliament for help, and the tendency of this was to make people unable to help themselves. The admirable institution started by Professor Jenkin had put people, to a certain extent, in the way of self-help. Mr. Gowans asked people to memorialise the Legislature to organise a body of architects who should pass an examination, and so be qualified to build sanitary houses. Now there were no more unsanitary houses than some that had been built by some of the first architects, who had passed every examination, and had acquired all the knowledge requisite to be obtained. Many instances might be given to prove that. In one particular case, in a house near Edinburgh—which had cost, he was afraid to say how much, certainly over 10,000*l.*, and which was built specially for a delicate family—the architect made no arrangements for the drainage, which for years lodged under the drawing-room and a bedroom floor; and when it was discovered it seemed that the law allowed no redress, there being some special protection for architects. In a case of carelessness of such a kind he thought architects ought to be amenable to law. In conclusion, Dr. Wood suggested whether the old-fashioned method of dealing with sewage, by removal in the dry state, with some means of carrying it away in closed conveyances, was not better than water cleansing, with its great waste, and its necessary provision of chambers full of deleterious gases under every house and street, which every atmospheric change tended to suck or drive into our habitations; and he was of opinion that these matters would again come up some day for discussion when people were better educated to appreciate their enormous importance.

Mr. H. H. Collins (Hon. Secretary of the Department), who confessed that he was responsible for putting this subject down for discussion, thought it was almost forgotten in the debate that the question related not only to Scotland, but to the United Kingdom. He should have been surprised if architects had been allowed to go scot-free, for there never was yet a meeting of medical men to discuss this question who did not consider it as one of their first duties to abuse the members of the profession to which he (Mr. Collins) had the honour to belong. But as Mr. Gowans rightly said, there were 'architects and architects,' just as there were 'doctors and doctors.' He had himself seen houses built in the manner described by Dr. Alexander Wood, but, on the other hand, they could all admire houses that had been built by professional gentlemen who were not only architects, but likewise engineers. In London they had exactly what Mr. Gowans required—they had the Institute of British Architects under a Royal charter; and in order to become a district surveyor—an office called into existence by the Metropolitan Local Management Act of 1855—it *was* necessary that the architect should pass an examination; but unfortunately the Legislature eliminated from the Building Act nearly all questions relating to sanitary matters, and directed attention only to such stability of struc-

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ture as was necessary to ensure the prevention of fire; such as thickness of walls, &c., &c.; the consequence was that the architects who were examined were not subjected to such an education as Mr. Gowans would desire; but he (Mr. Collins) might mention that the Council of the Institute had recently determined that every architect seeking admission to the profession would have to pass an examination which, *inter alia*, demanded a scientific knowledge of hygiene and sanitation. He noticed that in the plans designed by Mr. Gowans there was a deficiency of light and other requirements, so that it came back to this—'every man to his trade;' and that perhaps architects and engineers after all knew best how to plan a house. A recent article in the *Nineteenth Century* called attention to the fact that few people in England owned their own houses, and thus, when sanitary improvements were required, the tenants replied. 'Why should we spend money on other people's property?' In London there were annually built 700 or 800 houses without any architectural supervision; but he was delighted to think that the recent Edinburgh Act of 1879, if carefully administered, would benefit not only this city and Scotland, but likewise Great Britain. If its provisions should in the future become the law of the land, the questions now under discussion would be well met. There were many points in which London was in advance of other places, and especially in regard to the habitations for the poorer classes. Under Torrens's Act, if the medical officer found a house unfit for habitation, the Vestry could make an order that the same should be closed until rendered fit for living in; but if that were found to be impossible the house might be pulled down. He observed that the Edinburgh Act had a similar provision, and no doubt in progress of time such law would become general. It had been partially carried out in the metropolis, but not so energetically as would be desirable; consequently its effects had not been so marked as they would have been if its beneficial provisions had been sufficiently acknowledged and appreciated.

Dr. Russell (Edinburgh) thoroughly agreed with the Paper of Mr. Gowans, and thought there ought to be some mark by which an architect who could build a safe house should be known, and by which an unskilled architect should be recognised. The great majority of buildings now erected were not supervised by any architect, and Mr. Gowans had done good service by pointing out the necessity of getting rid of unqualified men, and ear-marking those who had some knowledge of sanitary matters. Only a short time ago in a trial at Edinburgh some extraordinary evidence was given to the effect that two months after a house was built, it was fit to live in; whereas he knew of a case where, a year and a half after a house had been built, it was still unfit for habitation. Many diseases arose from living in damp houses. The Dean of Guild Court was advised by the borough engineer, but could accept or reject his report; and the mere fact of a house being built under the supervision of the Dean of Guild Court would not influence him in recommending people to live in it. The proper authority to deal with the question of health, as Mr. Gowans had pointed out, was the Town Council, aided by the borough engineer and the medical officer of health; but, if they excluded the medical officer of

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health, the advice would only go to the structural strength of the materials and general safety.

Mr. W. Brodie (Edinburgh) said the blame for putting up defective houses rested more on the municipal authorities than on the architects. In regard to the sewer gas, the only way to deal with it was to get an inward suction in the sewers instead of an outward pressure, and that could only be done by ventilating shafts and mechanical contrivances so as to create an upward current and strike at the root of the whole matter. Probably the same remedy could not be applied so well to the poorer classes of houses as to the better residences; but he hoped that professors learned in sanitary matters, and sanitary engineers, would apply their efforts to the root of the evil rather than to the branches.

Mr. Robertson (Public Works Office, Edinburgh) thought the great thing to do was to keep this question before the public, as it was impossible that legislation could go far in advance of public opinion. In regard to the proposed code of laws, to be uniformly applied throughout the country, as Mr. Gowans suggested, he thought a code to be applicable to large towns as well as to rural districts must be very limited, and could deal only with the most elementary considerations. The danger of such a code would be that, while it was intended as a *minimum*, most people would regard it as a *maximum*, and he should therefore hesitate to say that such a code was desirable. Having pointed out that the plan exhibited was merely a modification of an existing dwelling, and not such a dwelling as Mr. Gowans would have newly built, he remarked that, although architects were very much abused, they continued to hold their own in public estimation, and they were not the only profession that had to bear blame for the shortcomings of other people. As to ear-marking good architects he thought it a very desirable thing, but believed it to be impracticable. If Councillor Gowans could show how it could be done he would be a benefactor of his countrymen; but they must consider that a great number of practitioners would not submit voluntarily to examination, and if it were made compulsory it would involve State interference, which was objectionable. He did not think the establishment of a Chair of Architecture in the Edinburgh University would materially influence the standing or acquirements of the profession. They had already two such chairs in London, but he believed these had not had any serious practical effect in advancing the position of the profession in the eyes of the public. The examination existing in London, to which allusion had been made, was the qualifying examination for district surveyors, and could not be looked upon as an examination for the profession at large.

The Rev. W. Graham (Newhaven) observed that it was one of the duties of a minister of the Gospel to take care of the bodies of the people, and he quite agreed with the remarks of Mr. Gowans about ministers taking greater interest in teaching their people the laws of bodily health as well as the laws of spiritual health. He held that it was almost impossible to impress the poor with spiritual teaching unless they were provided with healthy and well-ventilated dwellings.

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Sir JOHN ROSE CORMACK, M.D. (Paris) remarked that architecture in its sanitary, domestic, and social relations was in Edinburgh, and in Great Britain generally, much in advance of its state in Paris. In Paris, from a sanitary, domestic, and social point of view, the architecture was deplorably bad—bad for health, bad for morals, and very comfortless. It was, nevertheless, deserving of study, as it showed in a very striking way the natural outcome of evils against which the sanitarians of Great Britain were raising a warning voice, too little respected. In all our large towns the rapidly progressive increase in the value of land for building purposes is dangerously lowering the health-standard of the inhabitants. On revisiting Edinburgh, I regretfully perceive that dwelling-houses are becoming too much crowded together, and that the 'back-greens'—open spaces so invaluable to public health—are diminishing in size and number. In Paris the uninitiated are deceived by external appearances. In that beautiful city it is not difficult to point to architectural peculiarities, and social arrangements contingent upon these peculiarities, which perpetuate foci of infection and disseminate contagious diseases. The stranger admires the Avenue de l'Opéra, the Avenue des Champs-Elysées, the Boulevard Haussmann, and other spacious streets, with their tree-adorned, cleanly swept pavements, carefully watered, dustless roadways, and stately houses built of sculptured stone. Let him take a back-view, and his admiration will either be greatly modified or converted into disgust. He will find that everywhere much is sacrificed to external appearances. The plan which has been followed with wearisome sameness in the rebuilding of Paris prevents the possibility of cross-ventilation. There are no 'back-greens' or other open spaces. In the Avenue de l'Opéra you may shake hands with your neighbour to the back; and in the Avenue des Champs-Elysées and grand boulevards you have invariably smelling stables within a few yards of your back windows. Light and air are excluded. The windows opening to the back are hemmed in by lofty side walls. In the flats, or *appartements*, as they are called, every inch of space is saved; bedrooms are small, and so few in number that, even in high-rented dwellings, there is no accommodation for servants; and dining-rooms and drawing-rooms have often to serve as dormitories when the number of a family is up to or above the ordinary small numerical average in France. As a rule, in all the grand avenues, boulevards, and streets, the domestic servants of all the families living in the different flats lodge in the top story, where they form an independent separate community, generally augmented by outsiders. The top-story population is a distinct class, often in constant communication—on nocturnal visiting terms, so to speak—with the worst slums of the town. This is the plague-spot of Paris—the ceaseless disseminator of immorality and disease. Walking one day with a French friend in the Boulevard Haussmann, when discussing the same topics now brought under notice, he truly remarked that the fifth, or servants' floor, of every house was a *foyer de perdition*—a hotbed of moral and physical pollution. This peculiarity, being *architectural*, does not admit of remedy. For bribes, great or small according to circumstances, the *concierges* admit the male and female

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followers of the male and female domestics at all hours to the top story. There is thus constituted on a vast scale a pestilent social peculiarity in Paris, which is a thousand times more demoralising than ever was in its worst days the cenobitical 'bothy system' of agricultural Scotland. Again, the common stairs are often unventilated shafts, conveying impure air into the different flats. Vast blocks of dwellings are often compacted together with grimy shafts at intervals to let in a little light and much foul air. Typhoid fever and diphtheria are becoming more and more endemic in Paris—a fact which is attributable to the want of thorough ventilation. Once contagion gets into a block of crowded dwellings it remains there in perpetuity. This state of matters deserves careful study. From it let us take warning in Great Britain: the increased value of land is causing a reckless building up of the open spaces in front of and behind dwellings, without which there cannot be health in crowded communities. Cess-pools are disappearing in Paris; this may ultimately prove advantageous; but unless a better supply of water be given to the houses, sewers be better built, and closet plumber-work be improved, the new system will often be the medium of the morbid germs of typhoid fever penetrating dwellings which were quite safe with the old cess-pools.

Mr. Collins thought they did not allow the excreta to fall into the sewers in Paris.

Professor Fleeming Jenkin replied that cess-pools were being abolished, and communication with the sewers established; but there was an intermediate system by the use of tin cans in the cellars into which they strained a certain portion of the solids—possibly not the worst thing that could be done.

Mr. Collins asked what effect sewage irrigation had in Paris.

Sir John Rose Cormack replied that a remarkable illustration had occurred at the Hertford British Hospital at Paris. Several patients with intermittent fever suddenly appeared at the out-patient consultation and then such cases ceased. This occurred during summer weather, when extensive market-garden irrigation with sewage was going on at Levallois-Perret, whence came all the cases referred to. The fact is interesting; it belonged to a series of somewhat similar classes of facts which were well known. For example, during the construction of the line of fortifications which encircle Paris, and which involved deep earth-trenching, cases of intermittent fever were common in the Parisian hospitals after having been almost unknown there for a long period of years. When the fortifications were completed, no more such cases presented themselves. The circumstances are mentioned by Trousseau in his *Clinique Médicale.*

Dr. Andrew Buchanan (President of the Faculty of Edinburgh), who occupied the chair temporarily, spoke of the great inferiority of the houses now built for the poor in comparison with those now swept away. In the old houses in Glasgow the stairs went up outside and there was thorough ventilation, and no places for filthy and bad air to collect; but the new houses built in the 'closes' were so constructed that the largest number of cases of fever admitted to the fever hospital came from them.

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Dr. C. R. Drysdale (London), who said he commenced life as an engineer, thought there could be few more important questions than that of house-building. Passing through Leeds the other day he saw hundreds of houses built back to back, with no conveniences inside, the inhabitants having to go some distance to the closets. This was a proof of the necessity of some such Act as they had in London. In this respect London was in advance of Edinburgh. He was exceedingly interested in the Society which Professor Jenkin had explained, especially in regard to the houses of the poorer classes. The richer people could take care of themselves. In London he was physician to a Hampstead hospital, and to one in Whitechapel. In Hampstead, where there were almost invariably good houses, the death-rate was very low—13 per 1,000—whereas in Whitechapel the death-rate was in many parts as high as 40 per 1,000. They required in Edinburgh some such laws as they had in London, in order to prevent people living in insalubrious houses. In the Canongate he was surprised to see the misery of some of the houses in the slums—in London they would not be permitted. The question of house-building was mainly one of wealth. A wealthy population was long-lived; and a poor population was short-lived The only thing to be done was to have such Acts as Mr. Collins had spoken of as existing in London universally in Great Britain.

Mr. Allen Carter, C.E. (Edinburgh), thought that few people outside the professional circle had any knowledge of what an architect was expected to know. In the first place he was expected to be conversant with all that was beautiful in form or colour in all kinds of decoration; he must be a thoroughly competent artist; he must also be a lawyer and know the law as between himself and client and contractor; he must also be a mathematician, and be able to tell what weight a beam will bear with safety, or the thrust of an arch, the strength of a rod of iron in tension or compression; he must be 'up' in all kinds of measurements; he must be a natural philosopher and an hydraulic engineer, so as to arrange his water-pipes and know if there was sufficient gradient to carry off the soil. Besides this he was expected to possess such a persuasive charm as would overcome all opposition on the part of clients, financially or otherwise. They must make allowance for architects who had to deal with men who had not studied either one thing or another, but who insisted on having what they desired because they paid for it, and the architect must often either do what he was desired or give up the business. Notwithstanding all these difficulties the profession included a very large number of men who were thoroughly competent as artists and practical men.

Miss Burton (Edinburgh) expressed herself very much interested in that part of Mr. Gowans' Paper about light and air. In going about among the working classes she had noticed the contrast between the old and new houses. The new houses were by no means an improvement on the old in regard to light and air. She could sit with comfort in the old houses in the Canongate, owing to broken windows, open staircases, &c., but in the new houses there was a sense of close air. The people ought to be educated to require fresh air, for no Act of Parliament could ever compel people to open their windows. In

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regard to sanitary matters in the country she instanced a place where water was supplied, but she refused to have the pipes laid on inside her house, as that would oblige a connection with foul drains. She did not agree with country people who thought that to have water laid on inside their houses was an advantage. If she ever had water laid on inside her house in the country, she would apply to the Sanitary Association to look after it. In regard to the Paris houses and the inhabitants of the fifth story, she did not see the objection which Sir John Cormack had taken, as she thought the better class on the lower floors ought to have some moral influence on those above, and therefore she thought it better that the people should be mixed up together in that way.

Dr. Stevenson Macadam (Edinburgh) said there could be no doubt about the filthiness of many of the water cisterns in Edinburgh and other places, and unfortunately most of the cisterns were so placed that no ordinary person could get at them unless he was accustomed to acrobatic feats. They ought to be placed so as to be easily accessible. The suggestion that people required to be educated in sanitary matters deserved the highest consideration. Clergymen might do good by impressing their congregations with the benefits to be derived from sanitary rules; but laymen, thoroughly up in the subject, could possibly do more. Professor Jenkin's Association had done good, and no doubt would continue to do good; but it was a question whether even now it had not reached that stage when the authorities ought to take the scheme up. At present the Association was in working order in a limited area, but did not reach the mass of the people, who could not or would not subscribe their guineas; and he thought that the sooner it passed out of private hands and was incorporated with the duties of the official sanitary officers, and supported out of the ordinary taxation of the city, the better for all parties.

Dr. Aubrey Husband (Edinburgh) said both doctors and architects had great difficulties to contend with It was impossible in this variable climate to adopt methods of ventilation to suit every house. In London drain-pipes were often improperly laid. In one case there was a leakage in the wall near a kitchen dresser, and the sewage got among the plates. The fault consisted in the joints being covered with ordinary putty. The fact was that houses were built in long rows and all the plumbing let out to one man, while the doors and window-sashes were brought from Norway. Often there was no connection whatever with the drains, and thus houses were at times built with no sanitary arrangements whatever. He also knew of whole rows of houses built in the northern suburbs of London where the partition walls were but nine inches thick from top to bottom, and on these the rafter plates were bedded, contrary to the Metropolitan Buildings Act. Owing to this construction he knew of a case where a house was burnt down, due to a fire originating next door, in the dead of the night. The cause of this faulty construction is to be found in the fact that in places just outside the metropolitan area there is no supervision of the builders. As London extends, the small villages and hamlets must be absorbed into the metropolitan area.

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The Rev. THOMAS SMITH, D.D. (Edinburgh), was afraid nothing could be done to improve the condition of the very poor. Those who lived in decent houses had no conception of the condition of the great multitude. If anything could have been done in Edinburgh for that class, he was sure it would have been done by Dr. Littlejohn. He despaired of seeing improvement effected by legislation. As long as people were allowed to build their houses one-half higher than the width of the street, the other people on the opposite side of the street would be shut out from seeing the sun. If might be said a man might do what he liked with his own house; but he ought not to be able to build it an unlimited height. If there were a good despotic Government it would say to that man, 'You shall not!' but no popular Government would interfere with the rights of individuals. But it was easy to ask questions, yet difficult to answer them. He had seen people living without light and air, and in a state which no farmer would allow his cattle to live in. As to the remedy, he could offer none. The pulling down of old houses and erecting new ones in Edinburgh had caused the rents of the new houses to rise, and the former occupants of the old houses, not being able to pay the increased rents, were obliged to herd together in lodging-houses—a system which ought to be deprecated, as every family ought to live in their own house.

Mr. IRONS, S.S.C. (Edinburgh), thought Mr. Gowans was perfectly sound in recommending that a Code of Public Health Law ought to be promulgated by the Legislature. It had been said they never could make a man healthy by legislation; but he believed they never could make poor people healthy without legislation. They would never have healthy homes so long as there was apathy on the part of the landlords. If Professor Jenkin's Association had a difficulty in dealing with the better class of houses, how much greater would be the difficulty in regard to the poorer class of houses! The Association referred to had accomplished much by voluntary effort; but, like the State education, the system of inspection adopted by it ought to be made compulsory, and he had no doubt the poorer classes could be educated in sanitary science, while landlords might be compelled to make their houses habitable. A general Act might be made applicable to the United Kingdom, and the separate sanitary authorities in Scotland should be under the control of the Board of Supervision or some similar central authority. The medical officers ought to be appointed by that central authority, and be empowered to bring before a proper court any offences against the law.

Bailie URE (Glasgow) thought that architects ought to study healthy houses more than they did at present, and if they did so many of the evils now complained of would cease. Popular lectures on health, he thought, were desirable. They were tried in Glasgow last winter with success. The more they permeated the lower strata of society in this way the better; and that brought him to the point of the desirableness of the school boards taking up the question. It was important that the rising generation should be instructed in the laws of health, which were more important than some of the branches of

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higher education. He agreed in the suggestion that there ought to be a minister of health, with a seat in the Cabinet. He concurred also in the opinion that there was a want of general building laws, so as to prevent bad buildings in the suburbs of large towns.

Miss BLYTH (Edinburgh) remarked that she thought it would be possible to make landlords improve their houses, but she did not see how they were to be made to keep their rents down. She remembered a case in which a landlord had done some repairs to a chimney, and on the following week the rent was raised twopence a week, and the tenant had no means of redress. Houses ought not to be let until someone had examined them and declared them fit for habitation. She had known of houses being built without flues. Many persons took houses without inquiry and examination, and found too late that they were not fit for occupation. A preliminary examination would remedy that. She knew of one person who would not take a house till the borough engineer had examined it, and it turned out that an expenditure of 60*l.* or 80*l.* was necessary to put it in proper order. She could not agree that children at board schools should be trained to a knowledge of sanitary requirements Children had only a certain amount of strength, and that ought not to be encroached upon; and it was after they left school that they should be made to understand what sanitary arrangements ought to be adopted to secure health.

The Rev. ALEXANDER WEBSTER (Edinburgh) expressed the opinion that a good deal might be done by legislation, and also in other ways. In regard to Mr. Gowans' allusion as to what the clergy might do, he assured the meeting that a good many of the clergy had of late years moved in the direction of advocating sanitary science not only in Scotland but in England, where the late lamented Canon Kingsley was one of the pioneers of this social movement. He had himself endeavoured, by lectures on secular subjects, to promote the social and physical well-being of the people among whom he laboured.

Professor FLEEMING JENKIN, in reply, said he fully admitted that the Association he had started could only deal with the houses of the richer classes. He trusted that when the Association had shown what could be done by voluntary effort with these houses, municipal authorities would step in and apply the same inspection to the houses of all. At present they admitted the obligation of seeing that good house-drains were provided in the first instance, but the other duty was equally imperative—that of watching that they did not fall out of repair. In regard to education, he could not believe that much good would come of attempting to teach sanitary science in primary schools. Even the well-educated middle classes were not competent to deal with their own houses, but required to call in skilled advice. The teachers in primary schools might impress on the children the fact that sanitary science was a reality, but he agreed with Miss Blyth that to teach the children technical details was impossible. Some speakers had upheld the London Sanitary Acts as superior to the Police Act now in force in Edinburgh, but he had been unable to see in what respect London was better off than Edinburgh. The Police Act now in force here seemed to him a very fairly satisfactory

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document, and he wished to understand more clearly, from the public health convener, why it failed to ensure the proper construction of new houses, as was alleged. There appeared to be some difficulty in working that Act; and the difficulty had not been fully explained to the Section; he trusted this would still be done, as this was the very heart of the question they were discussing, viz., the objects of existing laws.

Mr. Gowans, in reply, said they had ample powers under the local Act, if only they were carried out. There was a screw loose, he admitted, in regard to the Dean of Guild Court, but he hoped they would be able to get that amended, as the Court had the power of judging the engineers' report and might give it the go-by altogether. By another clause the medical officer of health could be sent to report as to whether any house was fit for occupation. But that was like shutting the door after the horse was stolen, and was a weakness in the Act which he hoped might be put right. By the Act the plans of houses and the drains were preserved, and could be inspected in the Dean of Guild Office on payment of a fee of one shilling. They had power over the ventilation of houses and also over the height of buildings, and in regard to the latter he would like to see the height lowered, so as to give more light and air. As to the rear of houses, they had ample power to prevent houses being built too close at the back, without giving proper light and ventilation. There was also ample power to enter houses during construction or alteration; and inspectors were employed to see that the registered plans were carried into execution. The magistrates had power to control the places where water-closets should be placed. There was also power to prevent the waste-pipes of cisterns from being connected with the drainage; and to compel the water from washing-basins, sinks, wash-tubs, and baths to be discharged in the open air before being sent into the drains. Then, if the medical officer reported a house unfit for habitation, they could order it to be shut up. Medical practitioners were bound to give notice of infectious diseases, and were paid a fee for doing so, and as soon as an epidemic case was reported they could thus pounce upon it. Then as to the supply of milk, they had power to stop it not only in the borough but also outside, and from any infected premises the milk might come from. They had also power to prevent the letting of houses where there had been infectious diseases until they were disinfected. As to internal arrangements, they could prevent fine old solid houses being cut up into too many dwellings, and also to control the quantity of cubic space in each apartment in dwellings and lodging-houses. The plans exhibited were not plans of such houses as he would design; but were plans of actual houses in Edinburgh which might be improved in the way he had shown. In regard to the education of architects, what they wanted was that architects should be placed in the same position as medical men—that anyone might know at once whether they had been properly educated or not.

The President (Dr. Beddoe) observed that a good deal that had been said was irrelevant to the subject under discussion, but was

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nevertheless so interesting that he had not thought it desirable to interfere. The principal suggestion made was that of Professor Jenkin, viz., that such a sanitary association as he had successfully originated should be started elsewhere; and there had been another suggestion, that it should be made compulsory. The Sanitary Association had met with nothing but good words from all; but to extend Governmental action in that direction had not been altogether so much in favour. There had been a suggestion made by Mr. Gowans as to 'ear-marking' architects; but there would be considerable difficulty in making architecture a close profession—even the clergy of established churches could not always be recognised, because everyone could adopt the title of 'Reverend.' Unless they could have some distinctive mark visible to everybody it would be of no use. He thought it curious that nothing had been said in the course of discussion about ventilating skylights. It had, however, been a very valuable one, and would probably have good results.

POLLUTION OF STREAMS.[1]

What are the Means which should be adopted for the Prevention of the Pollution of Streams, without undue interference with Industrial Operations, and for the Preservation of Pure Sources of Water Supply? By STEVENSON MACADAM, Ph.D., F.R.S.E., F.C.S., F.I.C., &c., Lecturer on Chemistry, Edinburgh.

THE subject of the Paper is of great national importance. In a restricted view, the matter concerns only riparian proprietors on the one hand, and manufacturers, lessees of mines, and town authorities on the other; in other words, those who suffer directly from pollution, and those who directly pollute. But in a wider view the matter affects the whole country, for all are directly or indirectly interested in the preservation of pure sources of water supply.

Since the Association last met in Edinburgh, two contrary forces have been at work. In most districts much greater pollution has been discharged into our rivers and streams, whilst in comparatively few instances attempts have been made to retain pollution from passing into the streams. Anyone acquainted, however, with the river systems as a whole will admit that, year by year, they are suffering from greater pollution, and that the waters are sadly deteriorating in quality; and where improvements have taken place, these have been carried out not voluntarily by the polluters, but under more or less compulsory powers obtained by those who suffer from the

[1] See *Transactions*, 1875, p. 598; 1874, p. 675; 1872, p. 331.

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pollution. The nature of pollution may be of diverse kinds. Thus, from mining pursuits we have lead particles, in a fine state of division, passed away in the water, also ochrey ferruginous discharges from pumping waters in ironstone pits and drainings from bings, &c. From manufacturers' operations, such as paper-mills, we have spent soda leys, spent bleach, and discharge waters containing much fibrous matters; paraffin works, discharging much acid and soda tarry and oily matters, and condensing waters; distilleries, from which dreg passes away in great volume of the consistence of thin pea-soup; woollen mills, which discharge spent soapy and greasy liquors, as well as spent dye liquors and spent dye stuffs; dyeing and calico printing works, from which flow large volumes of spent dye liquors and dye stuffs; skinneries and tanneries, which discharge spent lime, tan and dung pits, refuse sumach, bran and tan, &c. &c.; besides all furnace ashes, earth from founds, and other rubbish from nearly every mill or manufactory, as well as sewage from towns, villages, and mansion-houses. In the suggestion and adoption of means for the arrestment of these impurities being discharged into our river courses and their tributaries, I have been called upon to take an active part, especially during the last ten years; and in discussing the means whereby such pollutions may be arrested, I will refer to the operations which have been successfully carried out, and which have in many instances satisfied all parties concerned. At first, let me say, that the law for the prevention of the pollution of rivers is capable of dealing with the question, provided there were full and ample means to put it in force.

A manufacturer or millowner can use the water as it passes his works in any way he chooses, provided he returns it to the stream and to his neighbours below undiminished in quantity and unimpaired in quality. To carry out the letter of the law would seriously interfere with the manufacturing industries of the country; and yet when we look at the results of the law as put in force, we find that the hardship does not fall on the shoulders of the polluters, but on those who suffer from the pollution. Partly from a repugnance to raise the question, partly from ignorance of the clear meaning of the law, and partly from delay in the execution of the law, the injury to our streams is increasing in many places, and on some of our finest rivers, where, above the mills and towns, the water is pure and limpid, and the bed free from deposit, yet below the works and towns, the water is foul and turbid, and the bed of the stream is a reeking mass of filthy deposit.

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We must consider the subject from a broad platform, and I candidly say that my experience is that the riparian proprietors have proved their anxiety not unnecessarily to hamper commercial and town interests, but have sanctioned a reasonable compromise as to purity, where the millowners have on their part agreed to execute proper remedial measures, and faithfully and honestly to carry out such. The result has been that comparatively few actions at law have been actually brought to proof in our courts, and that a mutual reference to one or two men of skill, with power to order the execution of the necessary measures, and to supervise such, have been sufficient to prevent material pollution being discharged into the neighbouring streams.

I have now to give several instances of the means which can be pursued in arresting impurities from manufacturing operations being discharged into our streams and rivers.

I.—Mining Pursuits.

Lead Mines and Workings.

From these large volumes of water, with lead particles, are often discharged into our streams below, rendering the water poisonous, and, when spates cause the streams to overflow their banks, the grass becomes impregnated with the poisonous lead particles, and sheep, cattle, and horses are seriously affected thereby, and in many cases death ensues. The simple process of providing large settling ponds, independent of the stream, has completely arrested the mischief.

Ironstone Pit Discharges, and Shale and Bing Drainings.

These contain large volumes of acid-iron water, which may be clear or turbid. The clear discharges are the worst, being more acid, and when allowed to flow into a stream, the water of which contains carbonate of lime, an abundant deposit of ochrey matter is precipitated, so that for miles below a red ochrey sediment is formed in the stream, rendering the water unfit for man or beast, and poisonous to all fish, including trout and salmon, and even killing off adventurous worms. At times when the river course apparently clears itself in the lower reaches, a slight fall of rain or freshet occurring causes all the upper deposited pollution to be swept down, and thus foul the banks and herbage alongside the stream.

The remedy for the evil is simple, and consists in providing settling ponds, where by the addition of other waters obtainable from pits, and containing more or less calcareous matter in

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solution, or the addition of finely pulverised chalk, or ground limestone, or the refuse lime sludge from paper works, decomposition of the iron salt occurs, and, on subsequent settling in the ponds, the effluent becomes practically free from iron, and ceases to be acid. No doubt, the water becomes richer in lime salts, and increases in hardness; but it is rendered incapable of influencing the water of the stream for man, beast, or fish, and the river below assumes its natural and healthy appearance.

Paraffin Oil Works.

The pollution from paraffin oil works was, ten years ago, one of the most gross of all pollutions. In fact, it was the quintessence of pollutions, and at first it appeared to be the most hopeless of cure. The streams below the works were grossly contaminated with tarry and oily matters, and soda and acid liquors, which were allowed to pass into the neighbouring rivers. The banks and herbage were coated with tarry matters, in fact, were *matted* with it. The bed of the stream and the stones and gravel were saturated with tarry and oily substances, either directly visible to the sight, and, when scarcely visible, were amply revealed under pressure of the foot. The water tasted abominably, and the cattle refused to drink it. The water even smelt strongly of paraffin products recognised at a considerable distance from the river or stream. All fish were killed, and not even a living eel or worm could be seen, and when a stray trout from a tributary ventured into the main stream it became sickly, turned up and died. These facts were markedly observed in the rivers and streams west from Edinburgh.

The riparian proprietors called for the stoppage of the mischief, and after preliminary skirmishing in the law courts, references and arrangements were come to for the arrestment of the pollution. At first a suitable and complete remedy was scarcely expected. Enormous quantities of water had to be dealt with. Each work was discharging hundreds of thousands of gallons daily into the neighbouring streams, and the persistency of the pollution was such that a drop or two was visible to the eye, and was also recognised by taste and smell.

The ordinary purifying influence of water tainted with common impurities, owing to the oxidising influence of the air dissolved therein, combining with or burning up the impurity, has little influence upon paraffin pollution; but by the co-operation of all parties measures were undertaken which practically cured the evil. These remedial measures consisted in, first, diverting all the outside or natural drainage of the ground into separate runners encircling the whole work; second, the

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separation of all the pure condensing water, which could be run direct into the stream; third, the reception of the slightly impure water into a clean water pond, from which the water could be pumped up, and used over and over again; fourth, the running of very foul water into special ponds, from which it could be distributed for evaporation in furnaces and underneath fire-grates; fifth, the neutralisation, recovery, and utilisation of the soda tar and acid pitch, and the combustion of the separated tar in the furnaces. These operations enabled all the discharges to be either retained, or rendered pure enough to be discharged direct into the stream, and the paraffin works have in many cases practically ceased to pollute streams, and the fish have returned to the rivers and tributaries.

One essential condition of all such friendly arrangements is, that all discharges shall flow by open-mouth drains, or open conduits direct into the stream in open daylight, and not be passed underneath lades, or otherwise covered up. Of course, a standard of purity, or rather a standard of impurity, should be agreed to, so as to admit of a margin to work upon; and the following may be taken as a working standard, which does not press heavily on the paraffin manufacturer, but at the same time admits of a measure of justice being done to the riparian proprietors situated on streams of considerable volume:—

In Imperial Gallon.

Matter in suspension	Not more than 5 grains.
Acidity of water	Not more than 5 grains reckoned as sulphuric anhydride.
Alkalinity of water	Not more than 5 grains reckoned as caustic soda.
1. When 20 ounces are made up to 50 ounces, with ordinary river or spring water; or, 2. When 20 ounces are distilled, and the first ounce is added to 50 ounces of river or spring water; or, 3. When 20 ounces are rendered alkaline by soda, then distilled, the first ounce added to 50 ounces of river or spring water; or, 4. When 20 ounces are rendered acid by sulphuric acid, then distilled, the first ounce added to 50 ounces of river or spring water,	shall not render the water unpalatable or unfit for primary purposes by man or beast.

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Paper Mills.

The discharges from paper mills consist mainly of spent soda leys, spent bleach, and engine and machine waters containing much fibrous matter. The spent soda leys, since the days of Esparto fibre, have increased much in polluting power, and they consist of a dark brown-coloured liquor, very frothy in character, even when largely diluted with river water, rendering the whole of a creamy appearance, and the froth extending often from bank to bank. The discharge of this liquor into a stream is now totally unnecessary. The *boilings*, which are the strong caustic soda solutions in which the Esparto has been boiled for hours, may be readily evaporated, and the soda recovered, to be recausticised with lime, and used over again. At first this remedial process was carried out with great consumption of fuel, and eight to ten tons of coals were consumed for every ton of soda recovered from the liquor, and at the best only one-half of the whole soda was recovered; but the working of the process has been improved from time to time, till nowadays from 1½ to 2 tons of coals are amply sufficient to recover a ton of soda, and about three-fourths, or 75 per cent., of the whole original soda are now recovered.

The remedial measures can go further than this, however, for after the *boilings* have been run off from the boilers, the Esparto fibre retains much soda solution within the grass, and water being run in and allowed to stand constitutes the *first coolings*. When these are run off, a second quantity of washing water is run in, and after steeping takes out more of the soda liquor, and these form the second coolings. If the latter, or *second coolings*, which are the least impure, are then used for the *first coolings* in the next set, and these for making the boilings with extra soda in the succeeding boilers, the same quantity of water will pass from second coolings to first coolings, and from first coolings to boilings, so that the final evaporation of the polluted waters is kept within the bounds which will practically pay in the recovered soda. In the use of straw, rags, jute, &c., weaker soda liquors are produced, and these necessarily require more coal to evaporate the liquor per ton of the recovered soda; but still the same process of dovetailing the coolings with the boilings should be resorted to.

When the soda-evaporation process is combined with settling ponds for other discharge waters, sludge drainers for emptying the ponds, and ash filters for the effluents, along with save-alls

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for arresting fibrous matters, the remedial works will allow of the discharges being reasonably pure, which should flow by an open-air or daylight conduit into the stream, and not by hidden pipes or drains. A standard of purity or impurity, which can easily be kept under, is that the solid contents of an imperial gallon shall not exceed 100 grains when dried at 120° C., of which not more than one-half shall be burned or volatilised on ignition. This standard is now probably too high, and is too favourable for the millowner, for there is no difficulty in keeping the discharge down to sixty grains in the imperial gallon, and I am in hopes to see it under fifty grains.

One of the most successful means of purifying discharges from paper mills with which I am acquainted is to run all the washing, engine, and machine waters into a large trench dug in a gravelly soil, and terminating in a large settling pond also in gravelly soil. The liquid subsides through the gravelly soil, leaving the fibrous and other suspended matters as a coating on the surface of the ground. If a couple of these trenches are worked alternately, so as to admit of one being under cleaning and repair whilst the other is at work, the discharges from a paper mill may for years be passed into such trenches, with the beneficial result of not injuring the neighbouring stream at all.

Yarn Bleach Mills

have practically the same discharge materials to work up as paper mills. The liquid in which the yarn has been boiled, and known as the 'blackboils,' should be evaporated, and the soda recovered, whilst settling ponds should be provided for the neutralisation of the spent bleach and acid, &c.

Distilleries

discharge large volumes of dreg of the consistence of pea-soup or thin gruel, and of a grossly polluting character. An average analysis of dreg gives in the imperial gallon—organic matter, 2,476 grains; saline matter, 448 grains; being 2,924 grains in all. As the organic matter is of a putrescent nature, and is run off very hot, it causes gross pollution of the stream or water, rendering the whole more or less in a putrefactive condition, similar to that communicated by sewage. The water becomes turbid, and putrefying deposits settle in the bed of the stream, evolving noxious gases into the atmosphere, and producing countless foul growths, both vegetable and animal, characteristic of sewage polluted waters. The recovery of much of the putrescent organic matter from the dreg is readily

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accomplished. By mere subsidence in large settling ponds, the thick or more solid part separates to a great extent from the more thin or liquid. Thus taking (1) the dreg as run from the still, (2) the dreg liquor after settling for three days, and (3) the sediment or thick from dreg, the following analyses show how the thick settles down and leaves the thin above:—

In imperial gallon	Dreg as run from still. Grains.	Dreg liquor after settling for three days. Grains.	Sediment or thick from dreg. Grains.
Organic matter	2,476	794	7,206
Saline matter	448	328	720
Total matter in imperial gallon	2,924	1,122	7,926

The sediment is thick, and may be still further solidified by being placed in canvas bags and pressed, when the solid in a moist state can be handled, and be used as a feeding material for pigs, milch cows, &c. The composition of the solid or compressed dreg so obtained is as follows:—

Water	77·68
Nitrogenous organic, albuminous, or flesh producing matter	7·25
Non-nitrogenous organic, respiratory, fat, or heat-producing matter	13·35
Ash or saline matter	1·72
	100·00
Nitrogen	1·16

The value of this material for feeding purposes is 1*l.* per ton.

The liquid part of the dreg may be employed in irrigation, or purified by filtration through a gravelly soil. Of course, if the distillery be near the sea, the easiest method of disposing of all the refuse is to run it direct to the sea.

Skinneries and Tanneries.

These works are very polluting, and the discharges are very foul. The contents of spent lime vats, spent dung vats, and spent tan vats, as well as the solids, are generally thrown into the stream. The remedial measures consist in allowing all the discharges to settle, using the more solid portion as manure, and purifying the effluent by irrigation and filtration through a gravelly soil. At the present time the influence of many tanneries and skinneries upon the purity of neighbouring streams is very great.

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Gas Liquor Refuse

is a dark porter-coloured liquid, with a persistent odour of carbolic acid and tar bases. The only available means of dealing with this discharge is by evaporation, or by filtration through gravelly soil.

Woollen Mills

have discharges of spent soapy and greasy liquids, spent dye liquors, and spent dye stuffs. The spent soapy and greasy liquids are often treated with acids to separate oily matters, and in no case need they be sent into the stream. The discharges should be received in a box, neutralised by sulphuric acid, which combines with the soda and liberates the fatty acids, which rise to the surface and may be removed and purified. The liquid below, containing sulphate of soda and some impurities, may then be run into settling ponds with filters, and the effluent will be pure enough for discharging into a stream. The spent dye liquors ought not to be passed into the lades or streams, where they contaminate many times their own volume of water, and render it very difficult to separate or treat them afterwards; but the contents of the dye vats should be evaporated in the same way as the soda liquor in paper mills, or the dirty water in paraffin works. There would thus be retained the grosser part of the pollution from woollen mills, including poisonons salts, such as arsenic and lead. All the washing waters, drainings from grease vats, &c., should be allowed to flow into settling ponds with filters, or into trenches with gravelly soil. There may be a hindrance in carrying out these measures where the mills are congregated together, and the space is limited; but combination will effect the purpose by carrying out a joint scheme of purification works. It is manifest that the direct discharge of impure waters into lades and streams renders it impossible to deal with the water practically afterwards, and it is equally clear that discharges of mill refuse liquids into the sewers of a town render it difficult to manipulate with such, either for mill discharges or for town sewage. The ultimate flow of water into the stream must also be by an open-air or daylight conduit, and no pipes should be passed into lades or streams. The quality of the ultimate discharge or effluent may be mutually agreed upon under a standard of purity or impurity.

Dyeing and Calico Printing Works.

The remedial measures referring to woollen mills have been

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successfully employed in dyeing and calico printing works, and have materially lessened the pollution.

Town Sewage.

Time will scarcely permit me to enter upon the full consideration of this department of the subject, and, besides, it will be specially referred to in the Papers to follow. But as a general principle I am clearly of opinion that sewage should be treated by itself separated from mill waters, which tend to dilute the sewage to a still greater extent than when taken by itself. The locality must determine the details of the process to be followed, but the slow passage of the sewage through large settling ponds or tanks, the employment of lime, and further settling and rough filtration, or the addition of aluminous cake, lime, &c., with subsequent filtration and irrigation, where the soil admits of such, take the sting out of sewage pollution. Our streams are not so much injured by the liquid part of sewage as by the solid or suspended matter which deposits in hollows, and lies there festering and putrefying, and evolving noxious gases, which even in summer heat float up the decomposing filth as a scum to the surface, whilst, whenever any slight rise or freshet takes place in the stream, the water carries on the deposited and putrescent filth, poisoning the fish, &c., and rendering the water doubly impure and unwholesome.

The question under consideration may also include a reference to the application of the law, or the powers given by mutual agreement and reference between parties. Remedial measures, when once constructed, ought to be maintained, and such is seldom done unless arrangements are made for continued inspection. Workmen get negligent, and foremen do so likewise, and managers and proprietors neglect or forget to supervise the remedial works. The result in many cases is that the measures fall into disuse; but where an inspection is carried on, even at long but uncertain intervals, the remedial works are, as a rule, kept in sufficient order. What is thus done by private arrangement between millowners and riparian proprietors might be still better done by Government inspectors appointed under the Pollution Act specially to take charge of rivers. I am well aware that Dr. Angus Smith, amidst his active duties as inspector under the Alkali Act, is also intrusted with the supervision of the Rivers Pollution Act in the northern part of the United Kingdom, and may be called upon at any time to consider the granting of certificates under the Act; but inspectors should have power to originate

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procedure, and of taking effective measures for the prevention of the pollution of our streams and rivers, with power to enter any mill or work by day or night, and take samples of all discharges, at the same time giving notice of the visit of inspection, so that duplicate samples may be taken.

Lieut.-General Sir JAMES ALEXANDER, C.B., F.R.S.E., read a short Paper 'On the Preservation of Fish, and the Prevention of the Pollution of Scotch Rivers,' in which he explained that the Anti-Pollution of Rivers Association, of which he was president, hoped to take the owners of public works along with them, and to convince them that their interests would not suffer if they did their best to prevent the pollution of our once fish-producing rivers. They should make every allowance for gentlemen who had succeeded to works, who should be allowed ample time to apply means for the removal of the pollution. But no new works should be opened without every means being adopted to prevent their polluting the water of our streams. Some of the small towns, as Dollar and Alva, were showing a good example in adopting means for doing away with town pollution.

A Paper on the same subject was also read by MAJOR-GENERAL SCOTT, C.B., F.R.S., who referred to a Paper contributed by him to the Glasgow Meeting in 1874,[1] in which he had endeavoured to show that it was useless to aim, in the first instance, at any very high standard of purity; that all that the country was ripe for was an enactment that, on and after a given date, it should be illegal to cast any solid matters from sewage into rivers; that all the evidence available on this subject went to prove that no general system of sewage-farming could be enforced throughout the country; and that, by the simple retention of the grosser solid matters of sewage, the chief cause of nuisance arising from its discharge into streams would be avoided. Six years have since then elapsed, but little progress has been effected; and in the conflict of opinion which still appeared to exist, town authorities might well exclaim, *Insanitas insanitatum, omnia insanitas.* Now again the Council was inviting communications upon this very subject, and General Scott could not forbear to again urge the opinion he had formerly expressed, and to declare that nothing would be done unless some definite and moderate standard were prescribed; and he would make it imperative upon towns to provide tanks in which all sewage should be clarified by simple

[1] See *Transactions*, 1874, p. 675.

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subsidence before it was cast into the river. He was the more impelled to make this suggestion, because he had come to the conclusion that, if the analyses of the most eminent living chemists were to be relied upon, the matters obtained from water-carried sewage by simple subsidence, and unmixed with bulky precipitants, could readily be converted into a portable manure of great value to the farmer. From numerous paragraphs, quoted from the various reports of the Rivers Pollution Commissioners, General Scott showed that in the pollutions arising from woollen and dye works, paper mills, mines, collieries, china clay works, and coal washing, the mere fact of impounding the liquid refuse products in tanks for a space of a few hours was sufficient to effect a marked degree of improvement in the effluent. Indeed, in some cases, after this simple treatment the clarified water was found to be even more pure than the river water previous to its use for such industrial purposes; the general result leading him to express an opinion that there was no manufacture upon which the provision of tanks for simple subsidence of the waste liquors would press harshly, and that in the case of mining operations this mode of treatment would in most cases suffice.

Nearly everyone was now thoroughly convinced that sewage sludge was a perfectly worthless and unmanageable commodity, which would not even pay the cost of carting to the farmer. Such, he stated, was, however, quite a mistake; and General Scott proceeded to show that it was very easy to obtain sludge in which the organic was to the mineral matter or detritus as 2 to 1; and that of these 66 parts per cent. of organic matter, at a very low estimate, 1-20th was nitrogen, 1-25th phosphoric acid, and 1-56th potash.

In order to deodorise and prepare this sludge for the farmer, General Scott proposed to treat it with lime and superphosphate. By this means he was enabled to deprive it entirely of its noxious smell; to render it capable of being readily dried, owing to the destruction of its slimy, glutinous nature, which had hitherto proved a barrier to its use; and to bring up the ratios of nitrogen and phosphoric acid to the proportion which Dr. Voelcker had laid down as being the best for a manure for general purposes.

He wished also to point out in connection with this question, that in towns such as Edinburgh and Glasgow, where fœcal matters were collected in tubs or pails, a manure of a much richer character could be obtained for mixing with the sludge manure, and thus a compound of far higher value could be prepared.

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In conclusion, General Scott desired to remind them that the compulsory adoption of the plan of detaining the subsidence matters in tanks need not in any way prevent towns from having recourse to any more perfect methods of purification, nor would it interfere with existing laws for the protection of streams. It would, in fact, serve as an introduction to any improved process. Such legislation, moreover, would have the advantage of being readily applied, and would thus, perhaps, bear some fruits, which was not the case with the permissive measures now in force, which had virtually proved a total failure in dealing with the evils arising from the serious and increasing pollution of our rivers and streams.

Mr. JOHN HANSEN, Wakefield, who also contributed a Paper, discussed in the first instance the comparative merits of the three methods available for sewage purification—namely, irrigation, downward intermittent filtration, and precipitation. The first two methods, he said, were insufficient and ineffectual, and required too much land for their working. The third required comparatively little land, and examples of the successful working of it, by means of tanks properly arranged, were becoming numerous in England. It gave them a permanent and cheap method of sewage purification, and one which could be worked efficiently at all times, no matter how inclement the season, which was not the case with the other two systems. The present state of the law was, he thought, inefficient to secure general purification in the public interests, as the law could not be properly carried out on private initiative. He urged that the Local Government Board should have the power to compel within a given time all pollution to cease, and, where parties neglected to comply with the order, the Board should have the power to do it for them, and charge the offenders with the expense. The third system of purification was, he submitted, peculiarly applicable to the case of such a large town as Glasgow, for the purification of whose sewage only twenty acres of land would be required, with the requisite tanks. His experience was that black ash and lime were the best purifiers of foul water.

DISCUSSION.

Sir ROBERT CHRISTISON, Bart., M.D., in opening the discussion said:—There are two distinct departments of the inquiry—pollution by sewerage and pollution by manufactures. I shall confine my attention chiefly to the latter subject, because I have had more experience with river pollution than with sewerage. Perhaps I ought to mention

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why I appear to open the discussion on this important question. During the first years of my professional life I was professor of medical jurisprudence, and was much concerned with questions of river pollution. I may add also that during that period of my life I was much in the society of lawyers, and was thus enabled to know what were their views on this matter. I may tell you that at this period (now fifty years ago) the opinion of most eminent lawyers at the bar—several of whom afterwards became ornaments of the bench—was that no argument was to be listened to that tended to throw obstruction in the way of manufactures—in short, they scouted all idea of the kind; but I am glad to say that our lawyers, from the bench downward, are satisfied of the necessity of improving our rivers. Some late decisions of our Supreme Court of Law have been very clear in the matter. There are two great points relating to this, namely, the law of prohibition, and the requisite measures for carrying it out. No one who looks at the last River Pollution Act can fail to see that the law must be in many respects inoperative. What is the cause of that I do not pretend exactly to say, but no one well acquainted with the nature of pollutions, and the measures to be adopted for preventing them, can help coming to the conviction that the Act bears strongly the impression of manufacturing by the manufacturers. The Act commences with an excellent declaration that pollution must be prevented, and with some good measures for its prevention. But there follow so many saving clauses, put in under amendments in the House of Commons, that the Act has been made in a great measure inoperative. This is a matter which should be particularly pointed out to this Association, so that they may influence efforts to get these mistakes corrected; for certainly they are mistakes. For example, we find in speaking of the pollution caused by mines, the Act says that pollution is not to be caused by any 'poisonous, noxious, or polluting solid or liquid matter,' proceeding from any mine; yet water in the same condition in which it has been drained or raised from such mine may be passed into the river. Now that is absolutely ridiculous, because Dr. Stevenson Macadam correctly tells you that pollution is apt to be caused by water containing sulphate of iron with excess of acid; yet, if that is brought out of the mine, according to this clause, the miner is entitled to throw it into the river, because he brings it out from the mine in the same state in which it enters the water. Permitting such an exception is therefore absolutely ridiculous. Then we find afterwards some singular interpretation of words. The Act declares that nothing is to be put into the river which is 'poisonous, noxious, or polluting.' It then proceeds to define various words, and among the rest the word 'polluting.' We expect to have a positive definition of the word 'polluting,' but it is a negative one for behoof of manufacturers. Pollution shall not include cases of discolouration. I should like to know what discolouration is innoxious. The object should be to preserve the cleanliness of water, for washing among other purposes; but how can discoloured water ever be applied to such a purpose? In another place the words 'solid matter' are also favoured with a negative definition. It is said that 'solid matter' shall not include particles of matter in suspension in

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water. Why, this is the worst of all possible pollutions! It ought to be stated what 'suspension' means, because if anyone looks at some sewerage outlets they will see very gross matters indeed floating upon the surface, or tumbling through it. Is that suspension or not? Supposing the word 'suspension' were defined to be that the article is suspended in a state of fine division, would that be a reasonable exception to make? Can any man of common sense say that it is a proper exception; because matters in fine suspension once admitted into a stream are among the very worst particles with which we have to deal. There are various other matters in this Act which I think should be also looked to with care, but there is one particularly to which I must advert. In the early part of the Act there seems to be no exception in favour of any manufactures. But there is afterwards an exception in favour of those who may have acquired a right by prescription; that is, if a man has been in the habit of polluting the water for forty years he may go on polluting it for ever. There is apparently no exception made in his favour at first, but then comes a saving clause that the power given by this Act shall not be deemed to prejudice or affect any rights or powers in existence, or vested in any person or persons by Act of Parliament, law, or custom. Now, I believe this was introduced in the first instance in order to counteract an attempt to deprive riparian proprietors of the rights they then possessed, and still possess under the common law of the country, to prevent pollution. But I apprehend that if this section of the Act preserves the interests of riparian proprietors, it must be held to preserve also rights on the other side. If it was previously a right on the part of the manufacturers to pollute in perpetuity any stream by forty years' prescription, then it appears to me his right is here saved. But certainly I see no reason why a man who has been making a fortune by polluting the water which flows on to his neighbour—if that has been done for forty years—should be allowed to continue to do so. The very fact that he has been allowed this privilege for so long a period is rather a reason, to my mind, why he should no longer retain it. These are some matters regarding the law which I think require to be looked into. Anyone looking at it will see also that the mode of procedure is a great deal too clumsy. In a case where there is obvious pollution, the mode of procedure is such as to give to the manufacturer an enormous advantage. Not only may he appeal to the ordinary courts, but he may also appeal to the Local Government Board in London, who, by this Act, have power to stop any prosecution. I think that is a great deal too much. Now I come to the means by which pollution may be prevented. As regards that matter I shall be brief, and merely state one proposition on which I think the Government of the country may fairly proceed. From an early period I have seen many of these manufacturing nuisances, and have found that they could be all reduced, or altogether prevented by proper means. All those manufacturing pollutions that have come under my observation might be prevented by adopting one general principle; and up to the present time I have seen no reason for departing from it. If the manufacturer would take advantage of the means at hand, and would give to the prevention of

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nuisances a little of the ingenuity previously expended on extension of his works, he would very soon put an end to it, or reduce it so as to be immaterial. When I was a member of the Sanitary Commission with the present Lord Norton—then Sir Charles Adderley—as chairman, I was, though a member, subjected to examination, and I stated this proposition, which commended itself to Sir Charles Adderley, and I find that it has been gradually gaining the assent of the country. I still hope to see it adopted by manufacturers, and much advantage flow from it. Dr. Stevenson Macadam, in his excellent observations on this subject, has told you that two manufactories are, in his opinion, especially called on to correct pollution—paper works and oil works. Now I long had great difficulty with regard to this, especially in connection with the purification of oil works. But I can confirm everything which has been so well told you by Dr. Stevenson Macadam. In the purification of oil works I had a particular interest because I was a shareholder in extensive works of that kind. A gentleman connected with the works came to me and told me of the great difficulty in which they were placed. I suppose I was expected to be willing to be a witness in their favour, but I told him their works were a nuisance and a most injurious one; that I had myself seen the injury done to the River Almond—fifteen or twenty miles beyond the works; that it would be a great mistake if they were to dispute the nuisance; and that they ought to agree to put an end to it by proper measures of purification. Well, this was done, and accordingly Professor Crum Brown, a chemist, and Mr. George Robertson, an engineer, were appointed by the Court of Session to examine the works, and suggest the proper arrangements. The result was that the purification has been completed. Every fish in it had been destroyed. No fish were seen except in the tributaries which the pollution could not reach. But within a year after the purification was accomplished I saw trout taken out of the stream in considerable numbers, and that has gone on ever since. Here was an instance in which the pollution was supposed to be incorrigible, and at the very first attempt to correct it, it was put an end to. Dealing with the paper-makers has also been a very great difficulty, and I cannot help saying here that on the part of the manufacturers generally there has been a great deal of *vis inertiæ*. I had occasion to examine the great paper works upon the Esk, about forty years ago. I mentioned at the time that I had seen works in Forfarshire where great advantage was gained by burning the alkaline ley and recovering the soda; and the manufacturer told me at that time he found, by thus making use of what was previously waste, he was subject to no expense. But twenty-five years afterwards, when I visited the paper works again, I found that nothing had been done with the waste alkaline ley, and that after the boiling of the rags the liquor was let into the water below. When I got, however, to one of the lower works on the river, I found the waste alkaline ley there undergoing burning, and the carbonate of soda was recovered. This process was going on under a patent by a process substantially the same as I had seen followed in Forfarshire twenty-five years before; and the paper manufacturer told me that it was the first year that patent was put into action by him,

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and that he expected to make in the course of the year a gain of several hundred pounds. There is still something more to be done, however, by the paper-makers, because the purification is not yet by any means complete. A part of their alkaline washings still runs into the river, and also the washings of the chloride of lime process. Now we come to a point which all manufacturers who use water should never lose sight of. The practice at paper works and some others is to work with a continuous run of water for purification. In that way an enormous quantity of water is required, so that it was almost impossible to make the purification complete. I was assured that it required nine hundred pounds of water to make a pound of paper; so that you can easily see how impossible it is that purification should be accomplished in that case. I found that manufacturers were all quite unacquainted with the method of the fractional use of water, and with the process known in scientific chemistry by the name of displacement. If they were to adopt this method, they would find a small quantity of water would answer their purpose. I mention this because there is no worse case to manage than that of the paper-makers. Well, I found that on a small scale, with only thirteen parts of water, by the displacement process I could render the paper mash so bright and pure that nothing subsequently done in the way of further purification would affect the colour of the water, so that the product might be run into the stream. I do not say that the same small quantity will do on a large scale. Possibly even less may suffice. But the system of displacement is applicable equally on a large scale as on a small one. By following such a method all manufacturers, I am satisfied, can reduce their quantity of water so much that all the impure water may be dried up, and the residue burnt with the waste heat of their works. Therefore I think that pollution may be put an end to. Every manufactory has a large quantity of waste heat which might be thus applied to good purpose. I see no reason why the process may not be applicable to every manufactory.

Lord Denman said he had some practical acquaintance with the evils of river pollution. Through the pollution from lead mines he had lost two cows and two horses; the river overflowed its banks, and the poisonous matter was eaten while the horses were grazing. It was quite clear that lead precipitation was the best remedy that could be adopted, because lead was so heavy a substance. As to corrosion of the iron pipes, they had just heard an instance where the evils that would otherwise have arisen from the surplus water of a coal pit had been quite obviated. He had attended lectures by Baron Liebig on sewerage, and agriculturists must be pleased to find that manufacturers could make a profit of that which would do harm if it were not treated by some process. In regard to oil works, evaporation seemed to be the most effective mode in its results. He hoped the question of sewerage would be better treated hereafter by merely prohibiting the solid refuse going into the rivers. In regard to different systems of treating sewerage, that adopted at Rochdale ought to be studied; he believed it to be the best in existence, for it left a solid refuse, which, if properly strengthened by chemical means, preserved,

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and placed at the roots of all plants, would do a vast deal of good. He wished more people would go to Rochdale and see how it was worked. When the Mappin Sands scheme came forward he had the greatest dread that the pollution of the water along the Plumstead marshes would produce fever, and he believed that there had been fever; and it was a source of regret that so much valuable matter should be wasted by an undue admixture of water. He was one of three persons who opposed the Hon. Mr. Napier's Bill. Opinion now seemed to have come round to try the system of precipitation by economising the water in the paper mills—the system of settling—and the tank system seemed to be likely to come into general use. They knew that the Israelites adopted a plan of retaining and burying all the organic matter, and, probably, that was the cause of the fertility of their land. But the question now was, how far they should interfere with manufacturers? If manufacturers only knew their own interest, he believed they would be the first purifiers of sewerage. He heartily hoped that this meeting would lead to the adoption of some profitable system, which would be improved every year as experience directed. There never was a patent that was not by observation rendered more simple the more it was adopted, and he hoped that would be the case both with agriculturists and manufacturers, and that they would cease to throw away that by which the wealth of the country might be increased if they could only secure harmonious co-operation.

Mr. David Milne Home (of Milne-Graden) said he studied this subject some years ago, but could get little information in Scotland, and therefore paid a visit to a number of places in England where processes of purification were being carried on. Before giving his own experience he wished to state that the Town Councils of Glasgow, Dunfermline, and Forfar had resolved upon adopting the necessary operations for the stopping of pollution from their towns; and, with this view, deputations from those places had been sent to visit different works in England. From the reports of these deputations, and from his own observation, he believed there was no better way at present known than a mechanical interception of the solids by filtration in tanks, and a precipitation of insoluble matter by chemical agency. General Scott had told them of the original methods, by which only what was visible was intercepted, and that was the only plan adopted in Scotland up to the time when he (Mr. Milne Home) began to study the question. Irrigation had been found to be a rather dangerous expedient, because, when he visited Croydon, where it was the only process employed, he found that typhoid fever was extremely prevalent, and it was thought that the effluvia from the irrigated ground produced disease. He believed the more important and efficacious method was that which had been explained by Dr. Stevenson Macadam, namely, chemical precipitation. The deputation from Glasgow pointed out in their report a number of towns in England, including Bradford, Leeds, and Birmingham, where chemical precipitation had been chiefly relied upon; and, accordingly, that deputation recommended that the whole drainage of the city of Glasgow should be treated by precipitation and filtration before being passed into the Clyde. Mr. Hansen had, in the

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Paper he had just read, mentioned the operations at Leeds. The first experiment with the sewage there was found expensive, but when Mr. Hansen was called in the cost of his proposal was found to be less than that of the sewage company which had previously been employed. The town of Hawick had been mentioned, and he might say that, having a short time ago inspected the works, he found the fluent going into the river there tolerably clear; indeed, almost as pure as the river into which it was flowing. Considering how many processes there now were of acknowledged efficacy, it was quite in the power of manufacturers to adopt means to prevent river pollution. He knew of one case in which a court had required that the pollution arising from paper works should be stopped. In that case precipitation was employed, and had been successful, without any interference with their industrial operations. The question put on the Paper referred to 'undue interference with industrial operations.' He thought there was no 'undue interference' when riparian manufacturers came forward and insisted on their legal rights to the use of the river, and insisted that manufacturers should not destroy the primary use of the water. If there was any undue interference in such a case it was on the part of the manufacturers themselves. There was no necessity for manufacturers to depend upon water power, since they might use steam as a motive power. There were other industries which required to be thought of. The destruction of fish in our rivers, owing chiefly to pollution, was immense. The disease engendered in the river Tweed last year had the effect of destroying no less than 15,000 salmon, and Mr. Buckland had mentioned that in a small river in Dumfriesshire about 1,000 fish were killed, so that the country was really deprived of one very important article of food by river pollution.

Mr. W. C. Sillar (London) said it was not only to their interest, but it was their bounden duty, to lift this question out of the narrow groove of selfishness, or one solely between a riparian owner and a manufacturer, and to treat it as one affecting society as a whole, a view of it of which this Association especially professed to be the exponent. He rejected as absurd the idea that men were free to make any contract with each other which seemed to them mutually advantageous, and maintained, on the contrary, that society as a whole was an important third party to every such contract, and that, if its action were prejudicial to the best interests of society, no amount of individual gain could make it moral. The pollution of rivers was just a case in point, and, as it was beyond controversy that it was an intolerable evil to the community, no amount of interference with individual industrial operations could properly be called '*undue*' interference. Admitting the fact that, at the very source, our water supply was quite pure, already it was evident that to keep the dirt out was a better plan than first to let it in and then try to get it out again; and so, having narrowed the question to its first clause, viz., how to prevent pollution, he suggested the simple expedient of placing the offenders under such penalties as to make their present passive resistance policy the most expensive of all. So long as there existed no known practical method of treating manufacturing refuse or town sewage, it was reasonable to show leniency to the

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offenders; but now that the ingenuity and industry of late years had perfected means, of which the town of Aylesbury showed a remarkable example in simplicity and efficacy, it was time for society to demand peremptorily that our Acts of Parliament should no longer remain a dead letter. There was another side to the question, one vitally affecting the agriculture of the country. The farmers were expected to wring three profits out of exhausted soils, barely capable of yielding one, and this chiefly owing to our recklessly casting away, to pollute our rivers, what in reality was the necessary food of the earth—a course of folly for which the best excuse was our ignorance of the true source of the wealth of nations.

Mr. William Henry Wills, M.P., said that, apart from its importance and general interest, this question of river pollution must always be of special moment to any member of a sanitary board dealing with a population of 200,000, who were now discharging all their sewage into a tidal river, much to its injury and that of the city. They were doing this at Bristol, and with a view of ascertaining the present state of the science of the matter the Bristol sanitary authorities appointed a committee to investigate the question. The chairman of that committee had given him (Mr. Wills) some of the results of his investigations in different parts of the kingdom. The most satisfactory visit seemed to have been paid to the sewage works at Aylesbury, and as the information was brief, he desired to read it. I was as follows:—'The chairman of the Sanitary Board of Bristol visited the sewage works at Aylesbury, treated by the A B C process, and having closely examined them with reference to their suitability for dealing with such a locality as Bristol, expressed his surprise and admiration at the remarkable clearness and brilliancy of the effluent water—a purity not apparent only, but also shown by analysis. The analysis was made by Professor Wanklyn, who was present at the time, and who explained how far it went beyond the severest requirements of the Royal Rivers Pollution Commissioners. That the water was in no way injurious to fish was evidenced by shoals of them being present in the stream of purified sewage. Equally did the process seem successful in the complete absence of any offence to the senses. Some hours were spent in close proximity to the tanks, and no one could detect any odour. A third and highly important feature was that the agents used for effecting this deodorisation and purification were such as were in no way calculated to injure the manurial power of the deposit. These being clay, charcoal, and blood, were quite harmless in this respect as well as in relation to the fish. They rendered the sewage turbid as it flowed into the settling tank, and thus brought it under the immediate action of sulphate of alumina, which effected a separation. All this was valuable, and being precipitated to the bottom the clear water ran in a constant stream to the river. The treatment of this deposit being the most novel, was in this respect the most interesting of the details. Being pumped from the bottom of the tank into an ingeniously contrived press, the surplus water was forced out of it and the residuum was taken out in cakes as inoffensive as oil-cake, which it somewhat resembled in its ap-

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pearance. The completion of the drying and the preparation for the farmer was all that remained to be done. From first to last there seemed nothing to prevent the works being situated in the very heart of a town. There were present many scientific men and deputations from other localities, but the favourable impressions recorded above seemed to be those of everyone present. When Bristol is called upon to construct works there is no process of which the chairman knows that he could more confidently recommend. This one he feels confident fulfils *all* the requirements of the most exacting test, viz.:—(1) A sufficiently purified effluent. (2) A complete absence of nuisance. (3) No injury to the fish; and (4) an agricultural value in the manure. No particular system had been adopted yet in Bristol, and perhaps a good deal would depend upon the value of the product as a fertilising manure. Probably Mr. Sillar would know something of its value. Supposing the A B C system had been sufficiently well tested, it might probably be adopted with advantage to a district embracing a large population like Bristol.

Mr. Sillar replied, and said the manure had been tested upon wheat by applying ten hundredweights to the acre, under which it produced more than double the former crop. At Leeds the manure had been tested relatively with other manures, such as street sweepings, stable dung, and Peruvian guano, and the result was, that, taking cost for cost, the native guano had been proved superior to the rest. Tested in this neighbourhood by an eminent and well-known landed proprietor, of Berwickshire, against superphosphate of lime and nitrate of soda, the results were remarkably in excess of those attained with these other manures. These corroborated his own experience in planting single seeds in ground manured with the native guano. [Dr. Stevenson Macadam asked what proportion of phosphates and ammonia the manure contained.] He said that he could not tell from memory, but the manure had been analysed many times. [Mr. Collins asked whether the A B C process was being made use of at present at the Metropolitan Board of Works, and whether it was still in operation in Leamington and Leeds, or only in Aylesbury.] Mr. Sillar said the process was not in operation by the Metropolitan Board of Works, nor was it in operation at Leamington, because there the company had only a two years' lease. It had been discontinued in Leeds because the corporation were satisfied with a cheaper mode of dealing with their sewage, so long as the river into which it passed remained so excessively foul. The method was still in successful operation at Aylesbury, and the purified water could there be seen by any gentleman who wanted to see how far the system could be made applicable to his own locality.

Dr. T. W. Drinkwater (Edinburgh), confining his remarks chiefly to Mr. Hansen's Paper, said, if this process were successful it would be one of the best precipitation processes they ever heard of, because it would prevent pollution of streams by black ash waste, which at present was a difficult matter to prevent in the neighbourhood of chemical works. The cheapness of material must be a great inducement to its use, although, as regards the cost, he was not inclined to agree with

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Mr. Hansen altogether. Formerly this substance was regarded as waste, but now a large portion of the sulphur it contained was recovered. Where sewage works had to be carried on at some distance from where the black ash waste was procurable, the expense of carriage must be taken into account; besides, a chemical change would take place during transit which would render it useless as a purificative agent. He knew of no substance which oxidised so rapidly as black ash waste. If these difficulties could be overcome, it would, no doubt, prove a valuable process. As regards the A B C process, his objection to it as a commercial speculation was, that the sludge thrown down was of little manurial value, according to the chemical analysis.

Mr. Falconer King (City Analyst) said the subject of utilising the waste products of sewage was one very difficult to deal with, as was illustrated by the Paper read by Dr. Stevenson Macadam, which it was to be supposed embraced all that was known on the subject, and yet which did not tell us anything which we did not know before. There was no difficulty in dealing with sewage if they disregarded cost, because in dealing with this substance there was no danger of undue interference with industrial operations, if they could afford to spend a sufficient amount of money in purifying the polluted substance. Last year he had to deal with the refuse from a manufactory, and succeeded in rendering it pure, but at an enormous expense. Dr. Stevenson Macadam had spoken of several agents which might be employed as purifiers, and it was no doubt easy enough to use these when they were produced near the spot where they were required: but it was very expensive to carry such heavy and bulky products, as the most of these were, to a long distance. For instance, the waste lime from paper mills, to which Dr. Macadam had referred, contained such an enormous amount of water that it could not be carried any considerable distance, unless at rates which prohibited its use in this way. A suggestion had been made that the water should be evaporated off; but that could be only done also at an enormous expense. There was one place in Scotland where evaporation of a waste liquid was carried out, but at a large consumption of coal. In another place in Scotland the evaporation was effected in a very ingenious fashion. The waste water was collected in a pond, and the spent shale from the oil works was run into the pond; and thus, at one operation, the water was evaporated and the spent shale quenched. A question had been raised in regard to filtration through gravelly soil. He believed gravel simply acted as a mechanical filter, and, though it retained matter in suspension, would allow matter in solution to pass off, dissolved in the filtered water. A great deal had been said by Mr. Sillar and Mr. Hansen with regard to the utilisation of sewage; but he feared that sewage would never be used as long as guano, coprolites, bones, &c., were so cheap. Farmers, however, would use sewage immediately if it could be found that they could save money by doing so, but at present they preferred, for obvious and cogent reasons, other manures. He should like to know the fertilising ingredients in Mr. Sillar's manure. The fertilising ingredients in the generality of manures consisted for the most part of nitrogen, phosphorus, and

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potassium; and these were easily discoverable, and could be readily estimated by chemical analysis. He had examined by chemical analysis different kinds of sewage manure, and the results obtained had always shown that such manure was really of very little value.

Dr. ANDREW AITKEN (Edinburgh) said the question was, how to keep our river water perfectly pure? With a little precaution river water could be kept pure for primary uses; therefore, there ought to be no compromise, and pure water should be demanded as a first necessity. When manufacturers talked about the expense of getting rid of waste, the question was not the vital one, whether manufactures should go on, but whether the manufactured article should be dearer or cheaper. The public would pay higher prices if articles could not be got as cheaply, without polluting the streams. Dr. Macadam had shown how impurity could be lessened at a small cost as regarded sewage. It was not a question whether sewage would pay as a manure, but whether it should be allowed to go into the rivers. Sewage did not make a very valuable manure, and was not better than farm-yard manure; and, therefore, even if corporations had to pay for getting rid of sewage manure, that would be much better than polluting the rivers with it. It was not to be expected that the public would be much interested in schemes for saving so many millions a year by the manufacture of sewage manure. If it could be proved that sewage was a good agricultural manure, then the farmers would take it; but it must stand on its own merits. One thing was certain, that it ought not to be thrown into the rivers.

Dr. FERGUS (Glasgow), confining himself to the subject of town sewage, agreed with those who thought that the liquid portion is the most polluting, and he held that the removal of sewage by water was begun in ignorance of the results which must follow. There were no experiments made, and the question was, how to get rid of it quickly; but the system of water-carriage is simply that of removing a nuisance from one place and putting it down at another. The initial mistake made was, that water is a purifier. It is not a purifier of organic matter, because when sewage is put into a river there is not sufficient oxygen to destroy the organic matter, and the river consequently becomes polluted. He held that the town refuse had a good deal to do with the pollution of rivers. He had lived on the Tyne and also on the Clyde, and when he first knew the Clyde there were plenty of chemical works, but the river was bright and clear, and he had seen salmon caught in it. It was curious to know how the salmon passed Newcastle-on-Tyne. Water-carriage he held to be utterly contrary to the law of nature, because in the economy of nature there was no such thing as loss or waste, the refuse from one order of organic beings becoming food for another, the earth being the original parent of all organic matter; and if they wanted to go back to the law of nature, they must understand that what comes from the animal must go back to the land again. Engineers and chemists are clever—municipal authorities are not to be despised; but they might go on spending money for ever in the present way without solving the sewage problem. He believed, however, that they could not go on evading the law of nature without punishment; and, indeed, the Registrar-General's returns show an increase in the

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number of deaths from typhoid fever and a new zymotic disease called diphtheria. People talked of putting sewage, without decomposition, on to the land; but decomposition actually set in before it left the house, and by a mechanical demonstration he had proved that sewer gas would pass through a water-trap of almost any depth, so that water-traps are no protection against this gas. He should hope that after what had been said by Sir Robert Christison the pollution by manufacturers would cease. If any one wanted to see the extent of the nuisance derived from sewer gas, he had only to look at a trade paper, and see the thousand-and-one contrivances for trapping advertised there. He would say emphatically that the domestic matter ought not to be mixed with water, nor ought it to be allowed to enter our sewers.

Sir Robert Christison said it would be wrong to allow the solitary fact mentioned by Dr. Fergus to go out without the easy explanation of it which was to be given. The chemical manufactories of the Tyne were situated near the mouth of the tidal river, and he had himself followed chemical refuse for two miles along a stream before it was mingled with the centre of the water. Now, salmon did not go up a river until there was a flood, and it was therefore an easy matter for the salmon to keep in the middle of the water so far as to get into the upper waters, where the pollution did not reach. At all events, a single fact of this kind was no answer to the undoubted proofs already given of the injury done to fish by chemical refuse.

Mr. Milne-Home said, in the river Thames no salmon had been seen since 1820, and the reason appeared to be that the gas companies were formed at that time and the refuse was allowed to go into the river.

Dr. Fergus observed in the Tyne many chemical works were situated miles from the sea.

Dr. Macadam said that chemical works might be conducted without discharging deleterious matter into the rivers.

Mr. Gowans (Edinburgh) said, of the three main streams of Edinburgh, the Water of Leith used to be very pure, but was now much polluted, owing to the large population growing up on the borders of the stream outside the city; but while they deplored the impurity of the Water of Leith, they were allowing damage to be done to another on the south side of the city, and which fell into the sea near Portobello. The authorities, however, in dealing with these matters, wanted greater powers. It was a pity that such great expense should have been incurred in bringing water into the city while they had not yet got what they wanted. He should like to see water enough to scour out and flush all the drains, and he hoped this discussion on the general subject would conduce to that effect.

Professor Fleeming Jenkin (Edinburgh) said that what was chiefly important to the community was the fact that sewage could be rendered innocuous—more than one system was now admittedly able to secure this advantage. The question of profit to be derived from the process, either by the towns or by companies, was of secondary though real importance. Hitherto the profits had not been clearly made out, but the community was all the more indebted to persons

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who, like General Scott, devoted their lives to the investigation of this question. While he agreed with all, or almost all, the premises laid down by Dr. Fergus, he wholly differed from that gentleman as to the conclusion to be drawn from those premises. Water carriage, for good or evil, was thoroughly established in Great Britain. When water came into our houses we must take it away, and even if Moule's earth closet were used in every house, the sewers carrying away washings would be tainted and a source of danger and infection. We must, by inspection and good construction, render this water-carriage system safe. We cannot shirk this task, but must face the admitted difficulty. In France, as had been said on a previous day, they were as yet far behind us in this matter, and he expected the spread of the water-carriage system in France to be followed by a rise in the death rates, for their apparatus was extremely ineffective. This was the less excusable, as their organised body of civil engineers would allow the French to deal with watershed and sewage in a systematic manner, while in England we had been forced to deal with the questions piecemeal. Every drop of water which fell should, so to speak, be watched until it again fell into the sea untainted. This might seem utopian, but some large measures of legislation for the control of water supply were required, to determine the areas from which each town might draw its supply, and then to secure that the water they had fouled was duly purified.

Lord Provost Collins (Glasgow) said the question of the pollution of the river Clyde and its tributaries by the discharge of the sewage of Glasgow and neighbourhood has received a large amount of attention of late years. About twelve years ago the eminent engineers Messrs. Bateman and Bazalgette were employed to report on the best methods of dealing with the question, and at a later period Sir John Hawkshaw, on the application of the municipality of Glasgow and some of the adjoining burghs, was appointed as a Royal Commissioner to report on the whole question. The reports of these engineers was virtually a recommendation to convey the sewage by a large conduit to some point on the Firth of Clyde and then discharge it into the sea. The proposal, however, was viewed with so much hostility by the residents at the points indicated, that it was considered very doubtful if Parliament would sanction such a scheme, and attention was then directed to dealing with the sewage at a moderate distance from the city, by precipitation, allowing the effluent water to pass into the river, and conveying the sludge from the settling points by the same mode as is pursued by the Clyde Trust with the dredging from the harbour, and depositing it in deep water at a distance from any coast residences. Mr. John Bateman was again employed to report on a system of intercepting and main sewers, to convey the sewage to one or more points where it could be dealt with, and Dr. Walker, the city analyst, was at the same time instructed to make experiments with the sewage taken from various localities, in order to test the practicability of rendering the water sufficiently pure to permit of it being returned into the river Clyde, which is a tidal river up to and several miles above the harbour. These various reports, plans, and experiments

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have cost about 21,000*l.* from first to last, while Mr. Bateman's estimates of the cost of the works to be executed have varied from 760,000*l.* to 900,000*l.*, according to the plans to be adopted. In addition to the expense of constructing the works, the annual working expense connected with the purification of the sewage and the removal of the sludge would be very large, the quantity of sewage requiring to be dealt with being estimated at about fifty million gallons daily. The authorities, in view of a large expenditure, have, by deputations to all the large towns, when any scheme has been in operation, made themselves acquainted with the best modes at present adopted, so that they may feel confident that the expenditure, when incurred, will secure the desired result. While the authorities desire to contribute their quota to the purification of the Clyde, they feel that, unless similar action is taken by other parties who contribute to the pollution, a satisfactory result cannot be obtained. It is, however, important to note that, however desirable that such a noble river should be restored as far as practicable to its original purity, it has never been proved that its present condition has any appreciable effect on the health of the population on its banks. It seems now to be admitted that the dangers from the gases generated in the sewers are to be found and ought to be guarded against in the connections with the dwellings, and not after the sewage has been exposed to the air, or mixed with the water of a large river.

Dr. HARDESTY (Galashiels) stated that fish could live in many streams into which impurities flowed, provided there was a certain quantity of pure water. At the point where the Gala fell into the Tweed it was very impure, but just below that point was the best place for bait fishing in the neighbourhood; and his theory was, that the Tweed, being comparatively pure above the point where the Gala entered, there was sufficient pure water to keep the fish alive. A considerable quantity of sewage from the town entered the Gala as well as impurities from the public works, and it was clearly in order to feed on portions of that sewage that the fish swam to the junction of the two streams. As soon as they had satisfied their hunger, he believed, they regained the pure water above the junction.

Mr. Sheriff SPENS (Glasgow) pointed out that the law in England and Scotland with regard to river pollution was somewhat different. He believed the clause in the River Pollution Act preserving the rights of custom and law would very much undo the good which the Act was intended to do, so far as public rivers in Scotland were concerned. It had been held, in a series of cases in Scotland, that public rivers were the proper receptacles of refuse and filth, and he thought the mistake had occurred in the Act owing to the oversight of its framers, who did not know the important distinction between the law in England and Scotland. Our public rivers ought to be made as pure as possible. Expense ought not to be an insuperable difficulty.

Mr. JOHN HANSEN, in reply, referring to the existence of salmon in the Tyne, attributed it to the purifying effect of the percolations from the black ash heaps on the banks of the river.

Lieut.-General Sir JAMES E. ALEXANDER, C.B., in reply, mentioned

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that Dr. Strahan, of Dollar, employed a movable truck outside his house, into which the sewage of the house was conveyed, and ashes added, and this was occasionally carried away to fertilise the adjacent ground, so that no water was required at all, and if such a system were adopted generally it would do away with the water-closet system altogether.

Major-General SCOTT, in reply, could not agree with Dr. Fergus, that the liquid portion of the sewage did the greatest damage to the rivers. He believed that the greatest amount of impurity was occasioned by the decomposition of the solid matters.

Dr. STEVENSON MACADAM said that Sir Robert Christison had pointed out several matters in the Act which it would be well should be altered, especially one provision, which said that solid matters should not include matters in suspension in water, because, under that clause, dye stuffs might be floated into any stream. The saving clause about riparian rights was one which did good service, and to some extent made up for the deficiencies in the Act. He was glad to find that Mr. Hansen's experiment with black ash and lime was somewhat successful, but he was only doubtful about the effect of the sulphur-waste compounds on the purity and neutrality of the water discharged into a fishing stream. It did not follow because the water became clear that it was necessarily innocuous. He had not referred in his Paper to any benefit derivable from gravel for filtration purposes, but his references were to gravelly soils. He thought that a good deal of waste heat in manufactories might be usefully applied to the process of evaporation, and the hot spent shale at some of the shale works was also used for the same purpose, so that in many cases no extra fuel would be required. A suggestion had been made that towns should not go to other water-sheds for their supplies of water; but in country places there was a still worse evil, and he thought that mill-owners should not be allowed to take possession of small streams, because the effect was frequently to dry up the neighbouring wells. He contended that the primary uses of water were for drinking, cooking, and washing; and that those uses should precede the rights of any mill-owner.

On the motion of Mr. Milne-Home, seconded by Mr. Gowans, the following resolution was then agreed to unanimously:—

That it be a recommendation to the Council of the Association that, in order to preserve the purity of rivers and streams, Government should provide for the appointment of duly qualified inspectors for certain portions of the country or river basins, who should have the power of taking certain effective measures for preventing pollution, by requiring local authorities to take action, with an appeal from such inspectors, in the case of Scotland to the Court of Session, and of England to the higher courts there; and that the salaries or charges of the inspectors should be defrayed, like those of inspectors of mines and factories, and under the Alkali Act, by Government, the purity of rivers being for the general good.

The PRESIDENT (Dr. BEDDOE) observed that no one had offered any opposition to the resolution, though, of course, there were details upon which probably all would not agree. One of these was as to the fertilising value of sewage, although the fertility of those countries where excreta was utilised was notable. Chemical analysis could not as yet exactly give the value of a manure for all purposes, probably

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because they did not know quite enough of the laws of vegetable physiology and nutrition of plants to form an accurate judgment. The Secretaries, he wished to explain, had not been able to induce any manufacturer to bring forward a Paper on this subject, although the Association had been extremely anxious to hear all sides.

MISCELLANEOUS.

HOSPITALS FOR CONTAGIOUS DISEASES.

Location and Administration of Special and General Hospitals in which Contagious Diseases are Received. By Sir JOHN ROSE CORMACK, M.D. Edin.; M.D. Paris; Fellow of the Royal College of Physicians of London; Member of the Société Clinique of Paris; Physician to the Hertford British Hospital of Paris; Chevalier de la Légion d'Honneur.

THE Origin of Epidemics and the Spread of Contagious Diseases can so frequently be traced to noxious or defective arrangements in the social life of the communities which suffer from them, that the belief is becoming more and more general, both with the public and the medical profession, that they may sooner or later, to a great extent, be prevented by the rigid enforcement of precautionary measures, framed in accordance with increasing knowledge.

SMALLPOX.

Smallpox, one of the principal diseases to be now considered, particularly illustrates this statement, which is, however, general in its application. It applies equally to other maladies propagated in a manner quite different from smallpox.

The late Sir James Simpson, in his essay entitled 'Proposal to Stamp out Smallpox and other Contagious Diseases,' suggests measures which, he says, 'would probably stamp out smallpox in Great Britain within six months or a year, provided they were carried out as faithfully and universally as the Legislature can command; and,' he adds, 'if the extirpation of the disease were thus once effected, any fatal case or cases of the return of the malady to any seaport, city, town, village, or country district would be speedily notified by a machinery already in full operation—viz., the registration of deaths; and all the requisite powers for stamping out the disease in the newly infected locality could at once be set in

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full operation.' Isolation, as Sir James Simpson stated, is unquestionably 'the chief and leading measure required to stamp out small-pox;' but Sir James Simpson evidently was not aware of the extreme difficulty of carrying out a system of isolation in large cities. He and subsequent writers have not taken into account the fact that the winds may waft the pestilence to considerable distances. The four regulations which Sir James proposes are to the following effect:—

'1. The earliest possible notification of the disease after it has once broken out upon any individual or individuals.

'2. The seclusion, at home or in hospital, of those affected, during the whole course of the disease, as well as during the convalescence from it, or until all power of infecting others is past.

'3. The surrounding of the sick with nurses and attendants, who are themselves non-conductors, or incapable of being affected, inasmuch as they are known to be protected against the disease by having already passed through cowpox or smallpox.

'4. The due purification, during and after the disease, by water, chlorine, carbolic acid, sulphurous acid, &c., of the rooms, beds, clothes, &c., used by the sick and their attendants, and the disinfection of their own persons.'

An efficiently vaccinated community is to a very large extent a community protected from the contagion of smallpox; and vaccinated persons, when they take smallpox, generally take it in a mild and modified form. But how to secure efficient vaccination for a community is still an imperfectly solved problem. Persons stricken with smallpox propagate it by intercourse with unprotected individuals, who are, and perhaps must always be, a considerable section of the general population. It is necessary, therefore, to 'isolate' cases of smallpox, to prevent the spread of the disease. But is efficient isolation practicable? Or, rather—to put the question in a practical form—how are we to reduce to a minimum the danger incurred by the general population from contact with, or contiguity to, persons having smallpox? Are we to isolate them by collecting them in special hospitals, or in special wards reserved for their reception in general hospitals? If isolation in appointed places be deemed essential, under what conditions ought the system to be worked, so as to prevent the centres of isolation becoming centres of propagation, as they have been in Paris during the present epidemic?

Before answering these questions categorically, it is necessary to state a certain number of facts upon which the

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answers rest. An outbreak of smallpox which occurred in the early months of 1879, in a building in the Route de la Révolte, then used as the temporary Hertford British Hospital, furnishes a small, but not uninstructive, group of facts bearing on the subject. On January 15, 1879, John Claridge, a blacksmith, aged forty-eight, was admitted on account of a severe injury he had sustained in shoeing a horse. At the evening visit of the same day, a red rash was observed; and his temperature was 39° C. Next morning, a red papular elevated eruption was seen and felt under the skin. On the third day, numerous pustules declared the case to be one of smallpox; and all the patients in the ward who were able to leave were invited to do so. Four only remained, all of whom took smallpox, and two of whom died—viz., F. Martin, stableman, aged thirty-three, on February 3; and, three days later, John Shankland, coachman, aged thirty-four. One of the two who recovered was Edward Norman, coachman, aged twenty-six, a consumptive patient, who had three good vaccine marks on one arm. The other was Jem Cleasy, a coachman, aged thirty-nine, who had been admitted on account of a fracture of the leg. This man had had smallpox some years previously, and his face was deeply scarred and pitted by the attack. In both of these men, and in John Claridge, the disease was comparatively mild. Eight female patients remained, all of whom escaped. Two members of the staff took the disease; one of whom, Nurse Young, died on February 6, after an illness of six days. Her attack was confluent; and the case was of the worst type. The other was Morris, the cook, whose attack was mild. Neither of them came in contact with the stricken patients. Nurse Young was much afraid of the disease, and kept carefully from the infected persons. She had a dread of the disease, and yet obstinately objected to be vaccinated before the outbreak, and also when the smallpox declared itself. Morris had good vaccination marks. The outbreak was all over within a month from the admission of Claridge. Out of six who were attacked, three died. That Young, the nurse, who died, and Morris, the cook, who recovered—persons who had never seen or touched any of the smallpox patients, had never come in contact with their *fomites*, had never entered the ward in which they were treated—should have been stricken is a noteworthy fact, particularly as the women in the upstair rooms—nurses and patients—and likewise all those in attendance on, or in communication with, the smallpox cases escaped. It may be assumed that the persons who were in attendance upon the smallpox cases had been

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efficiently vaccinated, and that the persons who were living upstairs escaped, either from the same cause or because morbific emanations from the patients did not reach them. Be that as it may, in Young and in Morris the morbific germs found a soil, so to speak, suited to their germination and development. Of the thousands and tens of thousands who daily inhale and swallow morbid poisons, only a very limited minority present a soil adapted to the reproduction of the parent disease—be that parent smallpox, scarlatina, diphtheria, measles, typhoid fever, cholera, or other malady. The present question is—How, and in what form, did Young and Morris receive the contagium? The medium of reception was most probably the air. Several times a day they had to pass along a corridor, which (to command a thorough ventilation in adapting the building for use as a temporary hospital) was cut off from the length of the ward by a partition extending only two-thirds of the height from the floor. Large windows opened from without directly into this corridor; they were exactly opposite other large windows within the ward—that is to say, at its other end. When these opposite windows were open—which they generally were more or less—a considerable current of air swept into the corridor from the ward. I may add that I have perceived a strong eddying current in this corridor when a door at its extremity was open. Young and Morris passed through this corridor several times daily, and in their passage must have inhaled and swallowed poison-charged epithelial scales blowing from the ward upon their faces. That such was the manner in which the two persons in question received the morbific germs is highly probable.

The explanation is confirmed by an interesting little history narrated by the late Dr. Trousseau, of Paris, in his *Clinical Lectures.* Arguing, in his lecture on contagion, against the opinion that smallpox may originate 'spontaneously,' he maintains that the alleged cases of spontaneous origin are cases in which the source of the contagion could not be traced—a difficulty which, as he remarks, is much greater in towns than in rural districts. He then goes on to say:—

'Even in Paris, however, we sometimes have an opportunity of tracing back the contagion to its source. In 1827 I attended, in the Rue de l'Échiquier, a young woman with smallpox. She lived with her mother, a poor linendraper. Both women inhabited the ground-floor, which consisted of one room divided by a high screen. The division next the street was the shop; in the compartment behind the screen was the

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one bed in which mother and daughter slept. During the entire duration of the case of smallpox, the neighbours came, as of wont, to make their purchases; and none of them had any suspicion of the danger which they thus incurred. At that time I lived in the Rue de l'Échiquier, and so was enabled to watch carefully the development of a perfectly local little epidemic. In less than six weeks, seventeen of the patient's neighbours were attacked by smallpox; and I ascertained from the mother that the persons first seized in each family were persons who had come to make purchases at her shop. As no one knew how the disease had spread, the different medical men who were called in remained convinced that it had been spontaneously developed.'

The facts now stated show that, at least within a certain area of contiguity, smallpox is conveyed from person to person by atmospheric agency; and they likewise suggest that the diffusion of the disease by currents of air charged with the morbific desquamated epithelium must be much more common than is generally supposed. They consequently proclaim the necessity of adopting measures to prevent the atmospheric distribution of the germs, and suggest the importance of ascertaining the extent of the danger-area which surrounds a smallpox patient.

I had long wondered whether it were possible to devise any method for ascertaining absolutely or approximatively how far from the centre of contagion the morbifically charged epithelial scales and scab-dust may be wafted, when my attention was accidentally directed to a communication by Dr. Bertillon, of Paris, in the number for March, 1880, of the *Annales de Démographie Internationale*, on the diffusion of diseases in the vicinity of hospitals. Dr. Bertillon is Professor of Demography in the School of Anthropology, and took office on January 1 of the current year as Director of the Statistical Department of the Municipality of Paris —a department which at that date was placed upon an admirable and entirely new basis.

In the paper to which I refer, Dr. Bertillon takes as his starting point the fact that the weekly mortuary statistical reports published in January and February by the municipality of Paris showed that in the smallpox epidemic which then prevailed certain *arrondissements* of the city were conspicuous for the constancy with which they were stricken; and that the *arrondissement* of the Sorbonne suffered more than any other. This and other cognate facts he skilfully weighs in all their bearings.

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In January and February, there were 569 deaths from smallpox in all Paris, fifty-seven of which occurred in the Sorbonne *arrondissement*. That *arrondissement* contains about 32,000 inhabitants, which is 1-62·5 of the entire population of Paris; so that its proportion of smallpox deaths ought to have been 1-62·5 of 569—viz., nine deaths; whereas it gave fifty-seven deaths, which is from six to seven times as many. The numbers for January and February taken separately give almost the same proportionate results. The constancy of the excess of smallpox deaths in the Sorbonne *arrondissement* during the two months reported on had obviously a cause, equally constant. With a view to make this discovery, Dr. Bertillon tabulated the smallpox deaths of the *arrondissement* according to the streets and houses in which the deceased were residing at the time of seizure. This proceeding showed that the deaths from smallpox, in place of being pretty regularly distributed throughout the *arrondissement*, were grouped within a space hardly equal to one-fourth of it. The portion in question (as is seen by the map at the end of this Paper) lies between the bank of the Seine which forms the north-east boundary of the *arrondissement* and the Boulevard Saint Germain. The population of this portion of the *arrondissement* of the Sorbonne, in which the houses are much crowded, may be estimated at from 10,000 to 11,000, which is a little more than 1-200th of the entire population of Paris. The proportion of deaths within that area from smallpox ought, therefore, to have been a little more than 1-200th of 569, the total smallpox mortality of the city—viz., 2·84, or about three deaths; whereas the actual number of deaths was forty-nine, or more than sixteen times the proportionate number. Dr. Bertillon naturally concluded that whatever was the cause of the localised excessive mortality, the cause was limited within the small locality. He had reached this point in his inquiry when Dr. Farrabout informed him that there was a depôt of smallpox patients in a building called an Annexe of the Hôtel Dieu, which he suggested might explain the excessive smallpox mortality in the circumjacent streets. Dr. Bertillon, on pursuing his investigation, was soon convinced that the variolous contagion radiated, so to speak, from the depôt of smallpox patients in the Annexe. He, moreover, discovered that in one long street—the Rue Galande—having a range of houses with some of the windows opening opposite the Annexe, and some opening on the other aspect, the deaths from smallpox occurred only in the houses which had windows facing the Annexe. The houses in which fatal smallpox cases originated are indi-

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cated by black dots on the map. It appears, then, that the depôt of smallpox patients in question was really the cause of forty deaths from smallpox in a little corner of Paris—the cause likewise, of course, of a large unascertainable number of non-fatal cases within the same area—and also a cause contributing to keep up the epidemic throughout Paris by spreading contagion from person to person. The facts now stated show that the Annexe was a deadly centre whence smallpox was diffused by atmospheric currents; from it, the inodorous and invisible poison was wafted by the then prevailing north-eastern wind.

The little locality between the Seine and the Boulevard Saint Germain was not only well placed to receive the disease by the wind blowing from the Annexe, but was also a locality specially adapted for the breeding and spread of any contagious disease introduced into it. The depôt contained on an average 140 patients crammed into horrible wards. It is a lofty four-storey building overlooking the neighbourhood. The circumjacent dwellings are old, ruinous, and filthy, piled one above another, and very sparingly supplied with air and light, thus affording the very best conditions for receiving and retaining on their grimy walls the drift of variolous dust from the Annexe. These wretched old houses are crowded by correspondingly wretched-like inhabitants—a dirty people, in rags, lean and wan. On visiting this locality, to estimate its topography and characteristics, I had vividly recalled to my recollection localities in the Old Town of Edinburgh with which I first became acquainted, more than forty years ago, as a dispensary pupil. In the old town of Edinburgh at the date referred to, typhus was endemic; and it and other fevers were epidemic at short intervals. These fevers seldom showed themselves, and never took root in the New Town, which, from its open, straight streets, and exposed situations, was constantly being swept by the high winds for which Edinburgh is famous, but which could not sweep through the then existing fever-dens of the Old Town—the narrow lanes (closes) inhabited by a poor population, crowded into gigantic houses (lands) of from ten to fourteen storeys, into which air and light only found indirect and imperfect admission. By well-directed demolitions and the construction of new streets carried out by the municipality, the horrible fever-dens of my early days have been destroyed, and wind as well as air and light in abundance have been admitted to the Old Town, with a very striking diminution in the ordinary average number of fever cases, and the non-occurrence of a fever epidemic for many

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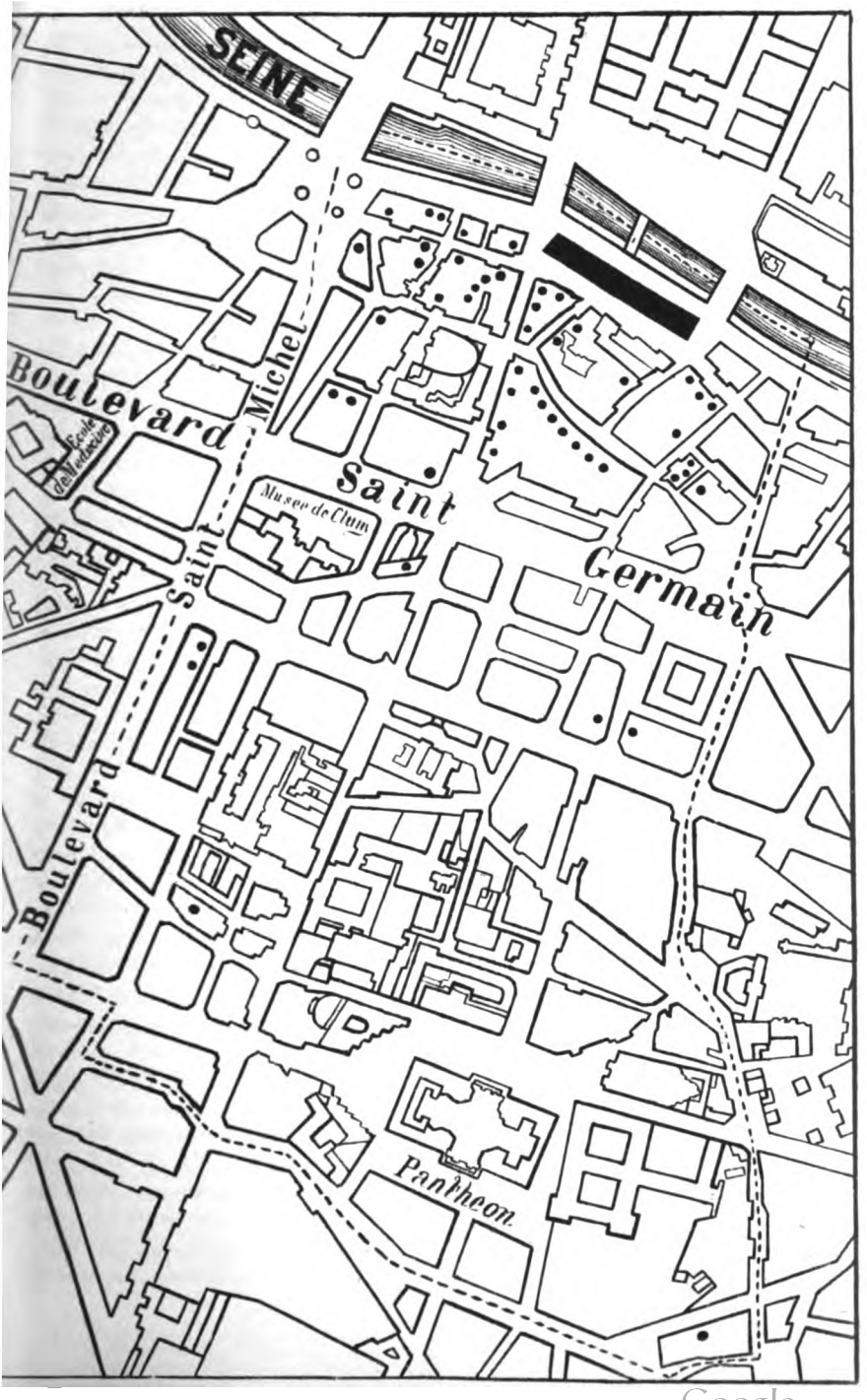
ARRONDISSEMENT OF THE SORBONNE.

[The black parallelogram is the "Annexe."]



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years. In the Old Town of Edinburgh, the places so appropriately named fever-dens were always found to be the favourite breeding-beds alike of typhus, relapsing fever, and cholera, showing clearly that the same insanitary conditions determined the headquarters of epidemics of specifically different diseases.[1] It must therefore be borne in mind that the smallpox germs wafted to the locality in the *arrondissement* of the Sorbonne fell on a soil where all the conditions were favourable for their development and spread. This fact has to be weighed in estimating the effect of the relation of the Annexe to the smallpox mortality of its vicinity. It does not, however, invalidate the conclusion that the Annexe was the great centre of the contagion; for when it was closed, the proportion of smallpox deaths diminished in the locality between the Seine and the Boulevard Saint Germain, and was very soon no more than in other parts of Paris.

Besides the Annexe of the Hôtel Dieu, there were in Paris three other depôts of smallpox patients—the Hôpital Saint Antoine, the Hôpital Eugénie, and the Hôpital Laennec. The Hôpital Saint Antoine and the Hôpital Eugénie are both in the same *arrondissement* which bears the name of the Quinze Vingts. The former, next to the Annexe of the Hôtel Dieu, was the most important depôt of smallpox patients; and the latter has a sad celebrity on account of its special wards for diphtheria, where lately M. Herbelin, the interne, died from that disease, the contagion of which he received in the incautious performance of his duties. The deaths both from smallpox and diphtheria were found on scrutiny by Dr. Bertillon to be almost indifferently distributed over all of the Quinze Vingts *arrondissement*. This, Dr. Bertillon thinks, is explained in respect to smallpox by there having been two centres of contagion in place of one—the hospitals of Saint Antoine and Sainte Eugénie. The Quinze Vingts *arrondissement* contains about 44,000 inhabitants, or about 1-45th (45·4) of the total population of Paris; it ought,

[1] Professor Sir Robert Christison, in the valuable Address on Public Health which he delivered at the meeting of the Social Science Association held at Edinburgh in 1863, in mentioning the remarkable decrease in typhus which had occurred in Edinburgh during recent years, dissents from the opinion that the decrease is attributable to the city improvements, because it had begun before they were made. Sir Robert's view merits serious and respectful attention. It must, however, be remembered that after severe epidemics there is always, and of necessity, a decrease for a long period in the ravages of the disease which has prevailed as an epidemic—simply because the persons susceptible to the morbific influence have been weeded away. Had the demolitions not taken place it is highly probable that an epidemic must have occurred ere now, in the ordinary course of events, in the New Town of Edinburgh.

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therefore, not to furnish more than 1-45th of the deaths from small pox—that is to say, from 12 to 13; whereas it gave 33 deaths from smallpox, nearly three times as many. It appears, then, that during the two months in question, in the *arrondissement* of the Quinze Vingts the mortality from smallpox exceeded the proportionate mortality of all Paris from twenty to twenty-one times. The mode of diffusion was, in my opinion, to a large extent, however, by direct personal communication, a circumstance which prevents us from estimating the extent to which epithelial drift disseminated the disease. Saint Antoine and Sainte Eugénie are large general hospitals, to which crowds of out-patients daily repair, and it was by them unquestionably that smallpox was chiefly propagated, and is still being propagated in the vicinity of these two hospitals. To a large extent, I doubt not, the spread might be checked by suppressing the out-patient department, and preventing by strict police supervision all intercourse between the outside population and the smallpox wards. The increased smallpox mortality, then, in the neighbourhood of Saint Antoine and Sainte Eugénie, while it shows that depôts of smallpox patients are dangerous to those living in proximity to them, does not show that the danger is one which cannot be much mitigated. I admit that at once; but I hold that it is a danger which no police system can entirely remove. The history of the spread of the disease in the vicinity of the Annexe of the Hôtel Dieu is the history of *spread by epithelial drift*, so to speak, *which no system of police can intercept.* It is, I maintain, a history which proves that a depôt of smallpox patients must always be a source of some danger to the inhabitants of the vicinity; and also that the only means of lessening the danger is by preventing its leaving the patient in a dry state, or destroying it on the premises.

This remark derives great interest and importance from the short account which I am now going to give of the fourth depôt of smallpox patients spoken of by Dr. Bertillon in his statistical report—that of the Hôpital Laennec, in the Rue de Sèvres. In that hospital, during the two months, there were special wards in which from thirty to forty smallpox cases were collected—a number which, though very much less than the number in the Annexe of the Hôtel Dieu, was still considerable. Dr. Bertillon found that no excess of smallpox deaths had occurred in the vicinity of the Hôpital Laennec. It is to be regretted that there is no way of ascertaining, as in Edinburgh, the number of non-fatal cases. Dr. Bertillon does not pretend to give an absolutely satisfactory account of this

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relative immunity, but specifies causes which probably co-operated in producing it. First, the buildings inhabited by the smallpox patients do not overlook the neighbouring houses, as in the case of the Annexe. Secondly, the windows which look towards it are few in number, and only look upon the garden of the hospital, not upon the wards containing the smallpox patients. In the third place, it has been the custom in the Hôpital Laennec for the ward-servants to throw at once into the fire the floor-sweepings of the smallpox wards, not because they had been ordered to do so, but because it was the most convenient method of getting rid of them. This was not done in the other smallpox depôts; on the contrary, the dust of the floors, necessarily rich in poison-charged squamæ, was collected in the dust-bin, placed in a corner of the garden, where it was again shaken up before being consigned to the scavenger's waggon. Finally, the houses in the district are of a good class, and unquestionably inhabited by a better vaccinated community. I am inclined to attach a capital importance to the very different treatment pursued in respect of the sweepings in the different depôts. The dust-burning is a simple proceeding, commending itself to common-sense. It is a sure means of largely destroying the aerial circulating power of the virus. If the ward-sweepings be carefully burnt within smallpox wards, there will be little, if any, chance of a poison-charged drift of epithelial scales spreading smallpox outside in the vicinity.

The teaching of the facts now stated is of paramount social importance, and must not be blinked because it is uncomfortably at variance with the views of leaders on questions of public health. The teaching is to the effect that depôts of smallpox patients cannot be divested of all danger to the surrounding population by preventing inter-communication of the persons outside and inside the depôts; inasmuch as the germs of the disease are liable to be carried to a considerable distance by a poison-charged epithelial drift. Possibly, if the patients in the Annexe had been diligently smeared with oil, and the ward sweepings had been regularly burnt at short intervals, there might have been no spread of smallpox by the wind. But still, the conclusion would remain unshaken that depôts of smallpox patients are dangerous to the surrounding population, particularly in crowded neighbourhoods, safety being contingent upon the minute, constant, and conscientious discharge of irksome duties by nurses and ward-servants. This uncomfortable lesson proclaims that we require to consider well where we locate, and how we

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administer, hospitals or wards specially reserved for smallpox patients; but it does not show that it is a heresy in preventive medicine to isolate smallpox patients in depôts.

The arrangement of numerous details must necessarily vary in each depôt according to the circumstances; but the principles which have to be borne in mind admit of being distinctly stated. The chief points to be attended to are embraced in the following propositions:—

1. Smallpox patients ought not to be isolated in depôts situated in or near dirty, crowded, closely-built districts; nor contiguous to an imperfectly vaccinated community.

2. Smallpox patients ought to be isolated in special hospitals, in which only smallpox patients are received. They ought neither to be received into general hospitals, nor into hospitals reserved for contagious diseases, however carefully a system of separation may be carried out.

3. Measures must be taken to prevent epithelial drift issuing from the depôts of smallpox patients; viz., frequent inunction of the patients when desquamating, and careful burning, at short intervals, of the ward-sweepings, in fires within the wards.

4. The isolation must be made absolute, so far as that is possible, by preventing direct and indirect communication between the patients within and the population living external to the depôts.

SCARLATINA AND MEASLES.

Whatever is true as to the propagation of smallpox by the wind, must necessarily be true of Scarlatina and Measles. Whatever measures are required to render effectual the isolation of smallpox are also required to render effectual the isolation of scarlatina and measles. There is this practical difference, however, that neither of these two diseases is so frightful a scourge, though in some epidemics the ravages of scarlatina are very severe. There ought certainly to be means available in all towns and rural districts of isolating scarlatina. With respect to measles there is much less urgency.

TYPHUS.

Typhus is unquestionably a contagious disease; but its morbific emanations do not travel far, and they do not seem often to communicate the disease unless they be considerably concentrated. The danger-area is probably limited to eight or ten feet. The physicians of London, Edinburgh, and Dublin, and, indeed, all the physicians who have had much to do with

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typhus, are of opinion that the attendants in typhus wards run very little risk when the wards are spacious, well-ventilated, and not over-crowded. Such also is the opinion I have formed from my old personal observation of the disease in Edinburgh, and from all that I have subsequently seen and read of it.

When a clinical assistant in Dr. Alison's wards in the old Royal Infirmary of Edinburgh in 1837, I had a severe attack of typhus fever, from which my recovery was unexpected. Immediately before, during, or soon after my attack, nearly all the medical and clinical assistants in the Infirmary—nine out of twelve, at least—who had to do with fever-wards, and likewise the majority of the fever-ward nurses, were laid down with the fever, which carried off three of my colleagues and several nurses. The duties of the clinical assistants necessitated their being some hours daily in low-roofed, stuffy wards, packed closely with typhus patients; the nurses, of course, had to spend most of their time in the vitiated atmosphere of these dismal rooms. Of the crowd of clinical students who passed through the fever-wards at the daily visit, only two or three took the fever; and among the students who only attended the surgical and general medical wards, it was, I recollect, said, when the question of contagion was discussed at the close of the epidemic, that no cases had occurred. These facts, and many others of like nature, clearly prove that typhus is contagious; and also, that when the atmosphere is vitiated by the emanations from a crowd of patients in a close room, it is a virulently contagious disease. They likewise prove, in an equally clear manner, that typhus patients need not be a source of much danger to those who attend upon them, and of no danger at all to those who live in their vicinity and do not mix with them.

Typhus is sufficiently contagious to make it improper to distribute typhus patients in a general ward. Without wishing in any degree to modify this precept, I may express my belief that evil consequences would seldom arise from the introduction of a very limited number of typhus patients into a general ward. The disease, however, is one which ought to be isolated, either in special hospitals for its treatment, or in special wards of general hospitals. One or other plan may be adopted without the risk of establishing a centre of diffusion.

It is very important that the public should know that well-ventilated depôts of typhus patients are not dangerous even to the attendants; and that they are in no degree dangerous to a neighbourhood by atmospheric communication, as is smallpox.

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Officers of health, or other duly constituted authorities, ought to have the power of removing to appointed hospitals cases of typhus occurring in small private houses, particularly in crowded dwellings, such as are inhabited by artisans and others of limited means. For their reception, fever hospitals, or fever wards in general hospitals, are essentially required.

RELAPSING FEVER.

The remarks now made in respect to the diffusion and isolation of typhus are applicable to the diffusion and isolation of Relapsing Fever.

ENTERIC (OR TYPHOID) FEVER.

Enteric Fever is contagious; and it ought, therefore, as a part of sanitary police administration, to be isolated, as soon as discovered, from the general population. Certain simple precautions, however, being taken—such as can be easily carried out—cases of enteric fever may be treated, without risk of diffusion, in general wards, or at home when the ventilation is good and the space sufficient. These statements are apparently, but not really, contradictory.

There exists in enteric fever a specific contagium which passes from the patient only in the intestinal discharges. This contagium is a living organism, which seems to be harmless at the time of its leaving the sick person's body, but in two, three, or four days multiplies and acquires a virulent vitality. When it then is swallowed or inhaled by a suitable subject for infection, it originates enteric fever in him. Dr. Murchison, for reasons which have not generally been accepted as valid, was of opinion that the poison also originates spontaneously in sewers and cesspools; but the truth seems to lie with the late Dr. William Budd, of Bristol, who by his facts, and by his reasoning on the facts, has established that it is only the sewers and cesspools which have received typhoid-fever stools which contain the typhoid-fever contagium.

It is, I think, impossible for any physician who has seen much of enteric fever not to be impressed with the conviction that nurses who are daily changing sheets saturated with the intestinal evacuations of enteric fever patients do not incur risk of getting the disease. The explanation is to be found in the fact that the contagium has not, when first discharged, become possessed of its virulent vitality and reproductive power. These qualities it will never acquire if the soiled bedding be removed within a few hours from the bed and immersed in a solution of carbolic acid. If the dirty bedding

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be accumulated for days in heaps, a spread of the disease among those who come in contact with it will certainly occur. Three years ago I was called to meet in consultation a physician at Ferté-Milun in the Aisne. He met me at Villers-Cotterets station, and drove me several miles to our rendezvous, in an open carriage, through a charming country. At the time, enteric fever was rife in Paris. As we went along he pointed out to me on an open slope a comfortable dwelling, into which he said sickness rarely entered, but that a week ago typhoid fever had been brought into it from Paris. The son of the family had been ill in Paris, and had been fetched home in consequence. His malady was typhoid fever; on the journey he had copious alvine dejections, by which all his garments had been saturated. Some of them were put away in a bundle, and others had actually been allowed to remain for days till they had dried on his body. In addition to the young man who had come from Paris—and was convalescent—two other persons in the same house were laid down with the fever, the nature of which was not doubtful, as in the three the characteristic eruption had been seen. A month later, I had the same drive with my colleague, when he told me that the fever had not spread from the house, and that no more cases had occurred either in the house or district since my last visit. That the typhoid fever was imported from Paris, and communicated to two persons who were brought into contact with the garments soaked in the alvine discharges and kept close in a bundle, can hardly be doubted. This history shows that *the immunity of attendants and others depends upon the removal of soiled bedding and clothing being early carried out.* At the Hertford British Hospital, the soiled bedding is at once carried to an out-building some distance from the hospital, where the sheets and bed-dresses are disinfected. At the end of a case, the soiled bedding is burnt.

From the contagium of enteric fever being given off from the infected subject by the intestinal dejections, it is only under certain special conditions that the atmosphere is the medium by which it is communicated. The gas rising up from sewers and privies often conveys the contagium into the houses of the rich. All are familiar with cases of this kind. Cases are supposed to have occurred in which the poison-charged desiccated intestinal dejecta have been blown about by the winds, and have in that way propagated the disease by being swallowed or taken into the lungs with the air. This has been particularly noticed in the outskirts of military camps and in country places where typhoid patients have relieved nature in

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situations exposed to sun and wind, which were common resorts for the same purpose. Much more frequently, however, the contagium is diffused in localities and families by gaseous emanations from sewers, by the water of wells and of streams communicating with privies and sewers containing the dejecta of persons having enteric fever. It is also now a well-established fact that the disease is spread among the customers of particular dairies where the vessels are washed or the milk diluted by the poison-charged water. Whether enteric fever does not sometimes originate spontaneously from sewage gases is matter of controversy; but it is quite certain that the disease is spread from person to person by the diffusion of a specific contagium in the manner now briefly stated; and that is one capital fact with which we are concerned in considering the questions connected with hospital accommodation for enteric fever.

Another most important capital fact bearing on the same point is this—that enteric fever does not spread in hospitals where cases of the disease are habitually distributed among the general patients. On account of the risk of swallowing or inhaling the poison in small crowded dwellings, where cleanliness is maintained with difficulty, and where one ill-kept privy is generally used in common by many families, it is essentially important to send into hospital with the least possible delay any case of enteric fever occurring in such habitations. It is satisfactory to know that the patients may be distributed without risk in the general wards of hospitals. On this point there is a general concurrence of medical opinion. Enteric fever is endemic, and sometimes epidemic, in Paris. It rarely happens that I am without one or several cases in my hospital or private practice. It is therefore from considerable personal knowledge that I have been convinced of the correctness of this generally adopted conclusion. In the nine years during which the Hertford British Hospital has been open, we have seldom been without one or more cases of enteric fever. In the autumn of 1877—when we were in the temporary building—an epidemic of enteric fever prevailed in Paris, and particularly in some streets and houses whence we derived many of our patients. On one particular day in that autumn, I noted that we had no less than seventeen cases of enteric fever in a total of twenty-two cases in hospital. Neither then nor at any time during the nine years has any one of our resident staff or resident patients taken the fever. Six young men in succession have during that period held the post of resident clinical assistant; and our staff of nurses has ranged from six to eight,

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among whom there have, of course, been frequent personal changes.[1]

The few following lines from the annual report for 1864 of the London Fever Hospital (Liverpool Road) afford both confirmation and illustration of the statement that there is no risk to hospital inmates from gathering together in a hospital large numbers of cases of enteric fever:—'For three years,' says the annual report in question, 'the cases of enteric fever and the cases which have not been true fever have been kept together: 644 cases of the former and 1,108 of the latter have thus been treated together in the same wards, interspersed among one another. Not one of the patients in these wards has contracted enteric fever. The nurses and attendants throughout the hospital have enjoyed a like immunity. During the last nine years, upwards of 1,500 cases of enteric fever have been under treatment in the hospital; but only one nurse has suffered from it, and in her case it was doubtful whether the case did not originate out of the hospital.'

Similar evidence abounds; but enough has now been stated to justify the following conclusions:—

1. Enteric fever is a contagious disease, the contagium of which exists in the intestinal excreta.
2. That the contagium is generally diffused by water or milk.
3. That perhaps the winds may spread the contagium when the sun-dried intestinal excreta are diffused as dust in the atmosphere.
4. That, for the safety of the community, cases of enteric fever ought to be isolated at home, in hospitals, or where the excreta can be systematically destroyed or disinfected.
5. That the gathering together enteric fever patients in well-organised hospitals is neither dangerous to their inmates nor to the inhabitants of the vicinity.

CHOLERA.

The contagium of Cholera, like that of enteric fever, resides only in the intestinal dejecta. Everything, therefore, which has been said in respect to the isolation and diffusion of enteric fever is applicable to the isolation and diffusion of cholera—with this exception, perhaps, that from the much greater abundance of the intestinal dejecta in cholera, there is a much greater risk of the diffusion of its contagium. Consequently,

[1] Soon after my return to Paris from reading my Paper at Edinburgh, in October, my hospital colleague, Dr. Herbert, was laid down by typhoid fever. He may or he may not have contracted the disease from hospital patients. I am thankful to be able to add that Dr. Herbert is now quite well.—J. R. C., January 1, 1881.

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it is a matter of prudence, if not of necessity, to remove cholera patients to special hospitals, or special wards, unless, of course, a system of thoroughly efficient cleanliness and isolation can be carried out at home.

A valuable Paper 'On the Compulsory Registration of Infectious Diseases as practised in Edinburgh,' was also contributed by Dr. LITTLEJOHN, who, after giving a general sketch of the history of preventive medicine as applied to infectious diseases, more especially smallpox and cholera, proceeded as follows:—While such diseases as cholera and smallpox demand special measures of inquiry, of late years the question as to the best means of combating the other zymotic diseases has been much discussed in medical and social circles. It is a highly important one, involving, as it does, not merely the prevention of disease and of a large mortality, which, in many cases, may be described as truly national, but also delicate questions relating to social rights and professional duty. No doubt in emergencies the maxim always holds good: 'Salus populi suprema lex,' which may be freely translated, 'Necessity has no law.' If a man's house is on fire and he refuses admittance to the authorities, it is justifiable for the public safety that the doors be broken open and the fire extinguished. Is it not equally necessary that similar facilities be afforded the authorities when cases of infectious disease occur among crowded populations, and which, if not isolated, infallibly prove the forerunners of serious epidemics? Sanitary legislation has cautiously recognised this principle in our Public Health Acts. As in a fire, however—just so in the first cases of an infectious disease—prompt action is absolutely necessary to secure the extinction of the fire and the prevention of an epidemic. It is of the greatest possible importance that, in both cases, timeous notice be given to the authorities. And the question which has assumed great importance in sanitary circles is, 'What are the best means of ensuring that the authorities be provided with this early intimation? and who are the parties who should furnish it?' The necessity for something being done to check the ravages of infectious disease in Edinburgh was brought under the notice of our Town Council early in 1876, on the occasion of an epidemic of scarlatina. No fewer than 873 deaths from infectious diseases were reported in that year to the local registrars; and as the weekly reports of the registrars are furnished to the local authority, this great mortality was the only available information of the existence of formidable and fatal disease in the city.

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This information was, however, practically useless. Before a death occurs the germs of the disease have become widely disseminated, and in our crowded poor population, living in tenement houses, which have been graphically called by Mr. Chadwick 'upright streets,' from their elevation and their populousness, it can be easily understood that, in such circumstances, disease spreads like wild fire. It might have been supposed that every intelligent medical men would have assisted the authorities in controlling the spread of these diseases, by calling upon them to remove clamant cases to hospital, thus ensuring isolation, and also to disinfect the clothing and the houses of the sick. But it was only in eighteen cases during this epidemic which proved fatal, as I have said, in 873 instances, that the assistance of the authorities was asked to disinfect, &c., and I am sure that not more than ten or twelve medical men gave any intimation of their cases. In reporting on these facts officially to the Corporation, I took the liberty of suggesting that the best method of ascertaining the presence of infectious disease in Edinburgh was the introduction of a clause in our Local Municipal Act, rendering it compulsory on the members of the medical profession to give early intimation of all cases of certain infectious diseases. This clause, although not very palatable to the medical men, was introduced, and so important was this information regarded by the Corporation, that they proposed to give 2*s.* 6*d.* for each intimation. And I was assured by prominent members of our Town Council that they would not grudge 5*s.* for each case. Our Municipal Act, with the clause in question, was brought before Committees of both Houses of Parliament; its provisions were carefully discussed, and finally approved of, and the clause referred to became law on November 7, 1879. Circulars were issued informing the profession of their new duties, and explaining the manner in which the Corporation intended to work the clause. Every practising member of the profession in Edinburgh was furnished—to begin with—with fifty copies of a card for the intimation of the case and with stamped envelopes to match. At the same time the profession generally were informed that in all suitable cases demanding isolation, the authorities would remove such to a hospital, and assist in the fumigation of the house, and the disinfection of infected articles of bedding and clothing. As the authorities were anxious to interfere in no way with the discharge of professional duty, they left it to the profession to state when it was necessary for the local authority to interfere. And at the bottom of each intimation card, the following words were printed in

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large type 'No immediate attention required.' If a card reached the authorities with this sentence unaltered, it was understood that the nature of the case was such as not to demand at that juncture the interference of the authorities; but if the word *no* was deleted by a simple stroke of the pen, the authorities at once understood that there was some circumstance connected either with the patient or his surroundings which demanded their instant attention. I am happy to be able to state that the compulsory clause has worked exceedingly well, and the authorities have, through the co-operation of the medical profession, been put in possession of most valuable information. The Act, as I have said, came into operation on November 7, 1879, and I can give you some statistics as to the details up to September 6 of the present year—a period of ten months. No fewer than 4,502 intimations were sent in by post, and of these 412 were cases of such emergency as to demand immediate action on the part of the authorities, in the way of removal of the patient to a hospital. The following diseases were comprised in the intimations:—

Typhus	22
Typhoid	226
Diphtheria	127
Scarlatina	917
Measles	3210

It can easily be understood how important such information must be in Edinburgh—a city which depends so much on its character as a healthy residence, so as to attract pupils to its numerous scholastic establishments. Two diseases happened to prevail in an epidemic form, viz., scarlatina, and especially measles. This latter disease, although it entailed a mortality of nearly 6 per cent., was generally so mild as to render compulsory removal to hospital exceedingly difficult. Indeed, that was one of the first lessons taught us by these returns, viz., the very inadequate accommodation afforded in Edinburgh for the reception of cases of infectious disease: fifty to sixty beds in our Infirmary for all classes of these diseases, and twenty in the Sick Children's Hospital, are too few to enable the Medical Officer of Health to enforce the compulsory clauses in a suitable manner, so as to stamp these diseases out.

Our experiment in Edinburgh, which has been watched throughout the country with great interest, has been very successful. We have settled this important point, that if such a clause, as we have, is properly and judiciously worked, no difficulty need be feared from the members of the medical profession. In some other towns it is the head of the household

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who alone is held responsible for giving intimation. Now, this was not adopted in Edinburgh for two reasons. The *first* was the superabundance of medical relief available for the sick poor, through the large number of students attending our great medical school. The *second* was that it was not considered by our Corporation fair to throw the onus of this duty on parents and guardians at the very moment when their energies and attention were taxed to the uttermost in nursing a sick child or other relative. Intimation of these diseases to be of any use must be *speedy*. The principle of action absolutely essential so far as the sanitary authorities are concerned, is, '*Obsta principiis.*' Allow a case of infectious disease to germinate for a few days in one of our tall tenements, with their 200 to 400 inhabitants, and the disease at once assumes the epidemic form, and cannot be suitably controlled. The medical man, however, has only in the evening to fill up a few of these billets, with no expenditure of time or trouble, and an important public service is rendered. The severer, or, in other words, the more malignant the case of disease, the more necessary it is that due warning be given in the proper quarter, and it is precisely in these overwhelming cases when a whole household is suddenly thrown into dire perplexity and confusion that speedy intimation becomes a necessity. How can a poor father or mother be expected, in these circumstances, to sit down and pen a note to the authorities, describing the locality and the nature of the illness which has invaded their domicile? When we think of the illiterate mother, left at home to tend a sick child, it becomes a farce to compel her to notify through the post to the nearest local authority the fact of illness in her cottage. But it may be asked, What is to be done if no doctor is called in? I answer, it is a disgrace to our nineteenth-century civilisation to think of persons being allowed to die without medical advice, and I hope to live to see the day when, by Government interference, the whole country will be so mapped out in parochial divisions that the poorest, if he choose to apply, will receive medical help. In Edinburgh few or no cases of the kind have occurred, and I feel sure that in any imperial measure the head of the house will only be called on to send intimation in the event of medical assistance not being available. Every case of this kind in Edinburgh is made the subject of direct police investigation, and is reported on by one. This entails on the relatives considerable trouble and inconvenience, and the poor have learned that it saves them much personal trouble if they exert themselves to procure medical

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assistance to their sick. Hence Edinburgh has for some years presented a very small number of what are called 'uncertified deaths,' i.e. deaths which have occurred without the patient having been seen during life by a medical man. In only one case in Edinburgh is the householder peremptorily called on in our Local Act to give this intimation. All dealers in milk must at once intimate the fact of a case of infectious disease being in their house. We thus recognise the importance of controlling the milk supply, and we have an additional safeguard that disease in these establishments is dealt with as speedily as possible.

The present system enables us to investigate the causes of an outbreak of disease and trace it to its origin, with remarkable success and rapidity, and the authorities can gauge day by day the deaths of the city. The queries of medical men as to the existence of disease in special localities receive a speedy answer, and the attendance of children at our schools from infected families can only, in my opinion, be controlled by such a system. Of course, as I have said, considerable expense is incurred, and, for the eight months since the Act came into operation, ending June 1880, I find that the fees to the medical men amounted to 519*l.*, and so firmly convinced are the municipal authorities of Edinburgh that the information thus received from the medical profession has proved of value to the city, that, to cover the probable expenditure of next year, they have set aside no less a sum than 1,000*l.* As to the citizens generally, no complaints have reached me as to the so much dreaded inquisitorial character of the inquiry, and I feel sure that my brethren of the medical profession have had no reason to complain of interference with their professional relations to their patients.

Mrs. JOHNSTON, manager of the Sanitary Aid Association, Hastings, read a Paper 'On Volunteer Work aiding that of the Sanitary Authorities in the Prevention of the Spread of Fevers,' detailing the result of the Association's work. Pointing out the success with which during the past nine years it had been practised, she wished the Congress to note—(1) that the system of isolating and disinfecting patients suffering from infectious diseases, and their clothes and excreta, had been now nine-and-a-half years at work in Hastings, and the results showed that, when earnestly and sufficiently applied, it never failed to stay the further spread of scarlet or any fever, including smallpox; and (2) that this system could be caused to be practised by the poor in their own houses.

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An interesting discussion followed the reading of these last two Papers, and at the close the following resolution, proposed by Dr. Stevenson Macadam and seconded by Bailie Ure, was unanimously passed:—

That it be a recommendation to the Council of the Association that the attention of the Local Government Board be directed to the necessity of powers being obtained for the compulsory registration of infectious diseases over the kingdom, in a manner similar to those conferred on Edinburgh and Greenock by their Local Municipal Acts.

Dr. STEVENSON MACADAM read a Paper 'On the Ventilation of Sewers and Drains.'[1] The efficiency of the sewage system of any town, he said, depended upon two main factors: (1) The facility of run or fall for the transmission of the sewage; and (2) the ready means for admitting of the escape of foul or sewage gases. In the older system of drainage the latter factor was scarcely thought of, because the common-built drains were not tight, and allowed of the escape of gases between the stones. In the more modern system, however, with brick conduits and glazed pipes, the sewers were practically impervious to gas. The more thorough sealing of the sewers and drains had led to the sewage gases being driven back into our dwelling-houses, causing disease and death. The quantity of sewage gas thus sent into houses fluctuated from hour to hour during the day, as the sewage increased and decreased in volume, rendering the air space less or more, and especially during the influx of warm water, which expanded the gases, and still more so during rainy weather, when the whole of the sewage gas was liable to be forced from the sewers. A mile of medium-sized ordinary town sewage contained about 12,000 cubic feet of air space, and more or less of this large volume of air, contaminated with sewage gas, was liable to be discharged through the house-service drains. This arrangement had led to the saying that town sewers were retorts generating sewage gas, and led on to our houses in a manner similar to ordinary coal-gas retorts with their branch house-service pipes. The first precaution to be taken was to cut off the house-service drains from the main sewer by thorough trapping, and to ventilate the house drain by level ground ventilators where practicable, or by pipes; and further, to carry the separate closet pipes to the open air. The main sewers themselves should be then thoroughly ventilated. For the letting off of compressed gases, the so-called ventilation might be accomplished by shafts or by open street gratings; but the shafts will not ensure the thorough aeration of the sewers, which ought to form the main feature in the

[1] This Paper will be published in full by the Author.

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efficient ventilation of the sewers. The open street gratings thoroughly served three conditions, which were essential: (1) They admitted of the ready escape of gas; (2) they admitted of abundance of air passing through the sewer to dilute the gas before escaping; and (3) they admitted of so thorough an aeration of the main sewers that any foul matter there would tend to be oxidised or burnt up rather than to enter into ordinary putrefaction. The chemical action involved in the latter process had not received that attention which it undoubtedly merited; for under such conditions the volume of putrefying gas is reduced to a minimum, and, at the same time, what gases of an offensive nature are produced will be oxidised or burnt up, and thus be rendered innocuous. Sewer-polluted streams have characteristic vegetable and animal growths, which luxuriate in such polluted water, and when plenty of pure water is turned in the sewage life disappears. So likewise sewage-polluted air in confined sewers has its characteristic spores, or germs, which propagate in such polluted air; but turn in plenty of pure air and the noxious spores or germs must fail to be produced. Any notion of partial failure of the open street grating ventilators to remove every particle of smell should only lead to a thorough inspection of the sewers in the neighbourhood as to their condition, and as to any deposited matter lying there—and probably it may be necessary to put another ventilator or two in the immediate locality. At all times it must be remembered that it is infinitely better for sewage gas to escape openly into our streets than steal insidiously into our dwellings, and that at the worst the open street ventilator can only evolve a very dilute and practically harmless air compared with the foul tainted gas, teeming with noxious spores or germs, which the unventilated street sewers can discharge into our houses.

A second Paper bearing upon the same subject, 'Wholesome Houses under the Banner System of Ventilation of Sewers,' was contributed by Mr. J. Coley Bromfield, Brighton, and was written to prove the successful working of that system in several large houses in London. The object of the system was to ensure a constant current of air, which should carry the foul air and gases from the ingress pipe of the sewer to the outside of the top of the house.

After the reading of these Papers by Dr. Stevenson Macadam and Mr. Bromfield, the following resolution, proposed by Dr. Stevenson Macadam and seconded by Dr. Littlejohn, was unanimously adopted:—

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That the Section beg to make a recommendation to the Council that they should direct the attention of the Board of Supervisors of Scotland to the necessity of causing an impartial inquiry to be made into the system of open-air ventilation in sewers, as practised in England and Scotland.

In a Paper 'On the Sanitary Results of Planting Trees in Towns,' by Dr. PHENÉ, F.S.A., the author said that, from the limit of time allowed for reading a single Paper, he had been unable to record many of his experiences in the statement read by him at Manchester last year;[1] he then referred to the experiments on the oxygenating properties of vegetable life as carried out by Messrs. Claude Bernard and Schützenberger, and on those which showed the absorption of oxygen and giving off carbonic acid, without the compensating power of reproduction of oxygen, together with those on the action of the yellow solar rays on the oxygenating process, as carried out by Messrs. Draper and Pfeffer, as well as some other points submitted by him at Manchester, to show that such points had been already considered.

Amongst the beneficial results he now submitted was the relief to the optic nerve through the eye resting on objects of a green colour. Just that which was effected by the use of green or blue glasses in strengthening and sustaining the power of sight was attained, or at any rate much aided, by the presence of green in nature; and in streets the only method to procure this result was by planting trees.

It was pointed out that wherever opportunity exists Nature provides green and blue, the same colour without the presence of yellow; and that as absence of colour produced snow-blindness, so, in tropical calms, where the ocean presented only a white reflected light from an uniform glassy surface, the eyes suffered; reduced optical power would soon follow a long continuance of the absence of the blue colour, which became immediately apparent on the motion of the waves.

So in streets, to the occupants of houses having a northern aspect, the glare of the reflected light was injurious; but the effect would be much modified by the coolness to the eye produced by the green of trees. In ancient surgery persons having weak or declining sight were advised to look at the emerald.

It was shown that in the old style of building, the streets, being narrow, were both cooler from the sun not being able to penetrate them with direct rays, and less subject to noxious exhalations from the scouring and purifying effects of the searching air to which narrow streets were subject; so that

[1] See *Transactions*, 1879, p. 552.

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while there was no space for trees there was also less necessity. Wide streets, on the contrary, were hotter, and required the shade of trees to cool them; and, as in the case of London, which had so far done without trees in its streets, it was pointed out that not only were modern streets compulsorily wide, but that the enormous increase in metropolitan buildings rendered every sanitary question one of importance; and the chemical properties of trees, as shown by experiment, gave them important standing on that ground, irrespective of ornament or the pleasure they produced. Some of the author's experiments had extended over thirty years, and he was, he believed, the first who tried planting trees in the *streets* of London. Since the reading of his Paper at Manchester a number of trees had been planted in wealthy localities, and even in Trafalgar Square, in the heart of the metropolis. But that which was important in such localities was more imperatively demanded in poorer districts, on the score of health, as during the last year alone 21,000 new houses were erected in London, producing 400 streets, with 71 miles and 468 yards of promenade.

In conclusion it was pointed out that all the nations of Western Europe used trees, both for their pleasure and health-giving properties.

Dr. Alfred Carpenter, Croydon, contributed a Paper on 'The Causes of Fogs which now belong to large Towns: a Proposal for their Prevention.' He commenced his Paper by describing a fog which enveloped the West End of London on a Sunday morning in September, at mid-day. Outside the area affected the sun was shining brightly, the air warm, and the sky cloudless. The writer concluded from these facts that the fog was not caused by mist or fog, as ordinarily understood by the term. He also concluded that it was not caused by manufacturers; for, being Sunday, the factories were not at work. He traced its cause to kitchen fires alone, for, being a warm day, other fires had not been generally introduced. He showed by actual experiment that the air contained unconsumed carbon in great quantity, as also sulphurous acid, which, by their effect, acted injuriously on the respiratory organs. The meteorological conditions, which were also factors in the case, were not removable ones; but not so the others, and the writer suggested means for their prevention. But, before doing so, he called attention to the fact that pea-soup fogs were not unmitigated evils, for, simultaneously with the fog there was a most unmistakable odour from the London sewer gratings, caused by putrefactive action in stagnant sewage—the mis-

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chief from which was to some extent corrected by the smoke. He protested, however, against one evil requiring another for its removal, and urged upon local authorities the duty of insisting upon sanitary engineers that they provide self-cleansing sewers in which sewer gases would not be produced to any extent, and that *pari passu* with clean sewers, means should be taken to purify the atmosphere from unconsumed carbon and sulphurous acid. Dr. Carpenter pointed out that gas stoves for cooking purposes, and gas fires, were now capable of being used as satisfactorily as ordinary coal, and acted as effectually; that the greatest impediment to the use of gas arose from its cost; and he showed by personal experience, that if gas could be reduced in price to 2*s.* 6*d.* per 1,000 feet, its use for such purposes would be a money saving, inasmuch as it would not cost much more than coal, whilst the dust and dirt consequent upon coal fires would be avoided; that in large houses at least one domestic less would be required, and coal cellars might be much curtailed in dimensions; whilst sweeps, smoky chimneys, and chimneys on fire, would be things of the past. To effect these desirable changes, several lines of action are shown to be necessary.

First. A tax upon grates not so constructed as to consume their own smoke. To be levied by the local authority, and used for the payment of interest on purchase of gas-works, and redemption of principal.

Second. A tax upon all those hideous structures called chimney-stalks, which disfigure our great buildings, and sometimes drive our architects into lunatic asylums. These taxes to be payable by the landlord.

Third. That as gas is now almost as much a necessary of life as water, the local authorities should purchase gas-works, and make every ratepayer a part shareholder, and call upon him to pay the cost price only of the gas consumed.

Fourth. That the law as to smoky chimneys should be enforced against all defaulters; that railway companies especially should be compelled to have engines constructed to consume their own smoke, and not be allowed to burn breeze and small coals in cages in large towns on ordinary foggy days.

The writer contended that, by these enactments as bases, pea-soup fogs would become things of the past, and London and other large towns saved from the consequences which now arise from our social habits; that our architects would be relieved from a difficulty which at times seems unsurmountable, viz., smoking chimneys; and lastly, that our public buildings would not be so rapidly destroyed by the corroding acids

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produced by burning coal in ordinary fire-places, and which, year by year, is increasing in intensity and destructiveness.

Dr. LITTLE, London, also contributed a Paper 'On the Fogs of London and of other large cities, and the Stagnation of Foul Air therewith.' In treating of London fogs it should, he said, be remembered that the great city, and the metropolitan county which it has almost swallowed up, is subject to the geographical and climatic influences of the British Isles, and whatever is true as to fogs in the metropolis applies more or less to all large towns and cities.

The primary cause of all fogs is the action of cold upon watery vapour which is not dissipated by a brisk current of air. When we speak of London fog we require to remember that it is composed of two different component parts: one, which is natural, namely, the white more or less opaque mist, such as is seen in country or in sea fog. This country, river, or sea fog, whether it seems to be dry or damp, provided it remains white and uncontaminated by decaying vegetable matters, which are apt to produce aguish fevers, is neither hurtful to the health of the strong nor greatly obstructive to vision in the case of the inhabitants of towns employed in their houses and manufactories.

The second component part of a fog, which may be termed unnatural, is that acquired when fog is wafted into towns and cities and becomes contaminated by the excreta of animals, the products of many manufacturing operations, and of the fuel consumed, the dust and dirt accompanying the movements and pursuits of so many people and animals, the gases evolved from sewers, and the putrefying emanations from neglected scavengering, from house dust-bins, from sunken dung-pits—still going on in spite of the labours of a generation of medical officers of health, inspectors of nuisances, sanitary reformers, and Acts of Parliament.

The several districts of a large city may be successively or simultaneously visited by fog, according to the varying direction and force of the wind, the depth of colour of the fog often being dependent upon the abundance of coal consumed or wasted in neighbouring manufactories or in mansions.

It may practically be laid down that in London fogs seldom occur in summer, oftener in autumn, most often in winter—the most severe black fogs being usually associated with an easterly wind. The affirmation that gradually during the last fifty years London has become more foggy can justly be gainsaid by nobody; and the Greenwich observations show that during

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the last three or four winters sunlight has gone on lessening; and the author would say, from his experience, through the fog not clearing off as early as formerly, that during each decade of the last forty years the London resident has been obliged to resort to a greater extent to the use of artificial light.

It is known that a mist or fog over a small running water, or moist meadow land, requires for its production certain conditions: a still, almost windless air and a fall of temperature, such as frequently occurs before sunrise or after sunset; or it may, if the sun does not yield warmth enough to disperse it, continue throughout the day. What is true of a streamlet and its miniature valley is true of the wide Thames estuary; and with an easterly wind sunk to a rate of movement not exceeding two to four miles an hour, the fog stagnates, and becomes impregnated with noxious matter.

London fog most certainly derives its colouring matter from coal smoke, which in proportion to its abundance gives to it a yellow, brown, or black colour. To this is added the excrementitious matters of animal life, which are largely composed of carbonic acid and sulphur compounds, especially sulphuric acid and sulphuretted hydrogen, so that a mixture of deadly materials results. Happily our London fogs, through admixture with the warm air given off by the innumerable chimneys, aided by the laws of the diffusion of gases, have a tendency to rise, although very slowly, into the atmosphere.

Additional proofs of the injurious influence of black fogs during the last few years are not wanting. A greatly increased mortality from chronic lung and heart diseases during foggy weeks is shown by the Registrar-General's Reports. The comparatively sudden death of many prize animals, the illness of others, which caused the premature closing of the Islington Show a few winters ago, was a striking instance of the deleterious effect of a stagnant, smoky, foggy air. Some of the ablest medical practitioners have borne witness that during the worst fog period last winter a new form of almost sudden death was witnessed. A sudden breathlessness without cough, suffocation, apparent paralysis of lungs and heart, and death, without previously-known chronic disease, from sheer want of air—*i.e., pure air*—occurred in numerous instances.

The sensational pamphlet *The Doom of the Great City* carries a warning with it which it would be wise not to disregard. We are met by an annually increasing danger. Sometimes the fog-bearing wind moves along the Thames

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Valley, embracing London and its suburbs, at a rate, it is believed, of less than three or four miles an hour, carrying with it the products of combustion and the exhalations of four millions of people, besides those of animals; and, owing to the slowness of its course, destroying weekly several hundred lives. We can understand the motives of our ancestors who, during the black and sweating diseases and plagues of the middle ages, recognising similar causes of danger, kept alive large fires in the open air, vainly hoping sufficiently to ventilate the city.

After alluding to the evils, social and industrial, resulting from the effects of fogs, and the failure of legislation of twenty years ago, the author affirmed that the chimneys of the three quarters of a million of private houses were the greatest offenders in smoke production. How to arrest their share of mischief is the more arduous part of the question of the day. It has recently been proposed, as a remedy, to collect all the chimneys of London into a dozen tall shafts; but it is to be feared that if these were as tall as the Monument they would, in the Tower Hamlets alone, need to be almost as numerous as the churches once were in the City. If the movement of the atmosphere, over which man has no control, were to be accidentally and abnormally further retarded, it may theoretically be asserted that an absolute calm, an entire cessation of the movement of the air, would almost as surely stifle all living beings as if they were shut up in a box without communication with the external air.

Dr. Niel Arnott and stove manufacturers have endeavoured to meet the difficulty by proposing the use of smoke-consuming open fireplaces, in which ordinary coal may be used. It has been suggested that the use of common coal as fuel for cooking and domestic warming purposes should be interdicted, and gas, smokeless coal, and coke be substituted by legislative enactment. Gas as a heating power is acknowledged to be a more expensive fuel than coal, and it remains to be shown whether the compensating circumstances of gas as regards cleanliness and servants' labour would satisfy the Briton for the loss of his cheering open fire.

The author concluded with the following suggestions:—

1. That a Commission having satisfied the Legislature that the consumption of smoke in all public and private dwellings is practicable as well as economical, it should be enacted that in all houses, the building of which shall be commenced after the passing of the Act, estimated to be 20,000 yearly, where coals are intended to be used, smoke-consuming fireplaces only

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should be built, or smokeless fuel used, such as may be sanctioned by some metropolitan authorised board.

2. That one year after the passing of the Act in all houses and buildings in which coals are used of the annual rent of 1,000*l.* per annum, smokeless fuel shall be used, or smoke-consuming fireplaces shall be substituted, at the joint cost of the freehold owners and occupiers of the house or buildings, for those fireplaces which do not consume their smoke, under an annual penalty for neglect of twice the value of the existing stoves.

3. That at the expiration of two years the owners of all houses valued and rated at 900*l.* per annum should be obliged to follow the example of the owners of 1,000*l.* per annum houses.

4. That at the expiration of three years the owners of the houses of 800*l.* per annum; in four years the owners of 700*l.* houses—proceeding more gradually in a similar manner with all houses and buildings till those of the lowest value are reached—should conform to the same regulations.

Another step in the right direction of sanitary reform in London would be to insist upon more arboricultural and horticultural spaces within the limits of the London of the future. It would be desirable to draw at once a series of circles around London, of the innermost of which Charing Cross should be the centre, within a radius, say, of five or six miles; the second circle half-a-mile beyond the first; and each intervening circular belt, being left unbuilt upon, might be devoted to recreation grounds, or planted with trees where desirable. All unbuilt-upon ground within ten or twelve miles of the centre of the metropolis not already devoted to public purposes, or not enclosed in connection with existing private residences, might be purchased by the Metropolitan Board—the object being to prevent the future additions to London being burdened by a density of population equal to that of the present day, and at the same time to give existing London the benefit of purer air-breathing spaces, by means of which it may be guarded from further pollution, such as cannot be contemplated without a shudder.

Bailie COLSTON, who contributed a short but useful Paper entitled 'Five Years of an Infant's Life—how is it to be taken care of when not under Maternal Supervision?' stated that the object of his Paper was chiefly to draw the attention of the meeting to the absence of proper provision for the children under five years of age of parents who were compelled

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to leave them while at work; and the next, to lay before them a short account of the work and progress of the Stockbridge Day Nursery and Infant Home, founded and managed by Miss Young. This institution was, however, insufficient to meet the cases of the large number of children so situated, and he felt that sooner or later Government must take up the question, and, through the Poor-law Board or otherwise, make the requisite provision for these little ones.

Mr. George Smith, of Coalville, contributed a Paper on 'The Inspection of Canal Boats.'[1] Among the Acts passed by the late Government, dealing with the social questions of our country, none stands out more prominently than the Canal Boats Act of 1877, its object being to bring under educational and sanitary supervision some 60,000 to 70,000 women and children living and working in connection with the 20,000 to 25,000 canal boats, on our 4,800 miles of rivers and canals, and to conduce in other forms to the general welfare of our floating population.

The following particulars will show the steps taken by the Government, and the dilatory action of the local authorities in seeing to the proper carrying out of the Act. On March 20, May 17, July 22, and September 14, 1878, regulations were issued by the Local Government Board to the various registration authorities. Notwithstanding the issuing of these regulations, and appeals to the country through the public press, little notice was taken of the Act by the sanitary authorities; in fact, it was manifest to the most careless observer that it was the intention of most, if not all, the authorities to allow the Act to become a dead letter. This I found to be the case during my five days' journey from Rugby to London, in the midst of a deep snow and severe frost, begun on January 1, 1879, the day the Act came into force. During the whole of my journey, and the passing of many hundreds of canal boats on the way, I did see one boat registered and numbered as the law directs. But there was nothing to be seen or heard anywhere to show that an Act had been passed to bring the small floating dog-kennels, and the women and children living in them, under the sanitary and educational inspector's eye, although the regulations had been issued by the Government for more than nine months.

In course of time some of the registration authorities, more loyal and humane than the rest, took steps to bring about the simple form of registration—a necessary step to know who

[1] See *Transactions*, 1876, p. 614.

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are the owners and captains of each boat. After two years' agitation the canal boats to a large extent may be said to have been registered, but in a slipshod manner, scarcely worthy of the name 'registered.' Probably the small registration fine of five shillings may have had something to do in bringing about such barren results. Two of the more vital and important features of the Act--viz., to prevent the herding together in the cabins of men, women, and children of all ages and sizes; and the education of the children, are to an alarming extent totally disregarded, as I know from particulars brought under my notice during the last few weeks.

Many of the regulations issued by the Local Government Board are very good so far as they go, but there are others which show a littleness and a want of grasp in being able to realise the object sought and the proper means for bringing it about—*e.g.*, greater attention has been paid to the regulation dealing with shelves, cupboards, lockers, &c., and too little to that part of the Act dealing with the education of the children, overcrowding in the cabins, and the proper enforcement of the Act. Much irritation has been caused among the boatmen by the local sanitary inspectors not having applied a simple and uniform system of ventilation.

The following suggestions will be in accordance with the plan I have sketched out from the first, as shown in my work, *Our Canal Population*, which, if supplemented to many of the regulations issued by the Local Government Board, will, if I may be permitted to say so, go far towards making this Act one of the best, dealing with the social welfare of the people, that has been placed upon the statute book for a long time, instead of being little better than a sham, as is now the case.

1. The Government should take the matter into their own hands. Your inspectors of the right stamp working in conjunction with the local inspectors would be sufficient to see to the proper working of the Act. The inspectors should have tact, sympathy, and a thorough knowledge of human nature. These qualifications are indispensable, especially so in the initiatory stages of the enforcement of the Act, on account of the tentative character of the measure and the work to be accomplished.

2. More registration authorities should be established. Properly qualified school and sanitary inspectors should have power to enter a canal boat at any time, either by night or by day, for the purpose of seeing to the proper carrying out of the law.

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3. All boats, barges, &c., used for the conveyance of goods should be registered, whether used as dwellings or otherwise, for which a registration fee of ten shillings should be paid annually by the owners, the whole, or such part as may be agreed upon, to be recoverable by the owner from the master or captain. The registration fee, to cover the cost of the education of those children who live in the boat, is allowed by the regulations, and also the expenses of registration and inspection.

4. The education of the canal-boat children living on board to be free, with liberty to attend any day-school conducted by properly qualified masters, attendance to be facilitated by means of a pass-book furnished by the Government for one shilling, and procurable at any bookseller's.

5. The expenses attending the education of these travelling children to be defrayed by the school authorities; and when there is no school authority, to be paid by the guardians of the poor out of the poor rates.

6. An abstract of the regulations issued by the Local Government Board to be hung in a prominent place in each toll-house on the canal side, or in such other public place as the chief inspectors may think suitable.

If the Canal Boats Act does not give the president of the Local Government power to carry these suggestions out, it is high time it did, unless we mean canal legislation to be turned into a laughing-stock and a farce. The children connected with other working-classes are subject by law to three elevating, educating, and healthy influences—viz., the factory laws, the educational laws, and the sanitary laws. None of these have been extended to the poor boat child in its floating home.

These principles I claim for the benefit of my young clients, if I may have the honour to call them so; and it will be under the pain of heavy responsibility and to the peril of somebody if these blessings and privileges are denied the women and children living and working on canal boats, who have been allowed to float about our country uncared for and forgotten during the last century.

Mr. SMITH also sent in a Paper on 'The Inspection of Gipsy Tents, Habitable Vans, and other Temporary Dwellings,' of which the following is a condensation:—I had the honour a year ago of bringing the sad condition of the gipsy and other travelling children before this Congress at Manchester.[1]

[1] See *Transactions*, 1879, p. 557.

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I have not, in later inquiries among the gipsies, seen any reason for modifying the statements I then made. So far as regards the numbers I gave of gipsy, semi-gipsy, and other wandering tent and van dwellers, I thoroughly believe, when correct census returns are published of our moonshine vagrants, travelling auctioneers, and show-people, it will be shown that there are over 30,000 travelling children, roadside arabs, and juvenile ditch-dwelling heathens outside our educational and sanitary laws. Of these 30,000 children—most of whom are illegitimate—there will be 29,000 who cannot read a letter or write a sentence. I verily believe that to-day, if the truth were known, not 500 will be attending either day or Sunday school. Why should not the sanitary inspector have power to inspect all dwellings, whether temporary, miserable, or otherwise? This has often puzzled me. Why should not the schoolmaster be allowed, and, if needs be, be compelled, to exert his civilising influence over the poor gipsy and other travelling children? There is no reason or excuse for such a strange anomaly in our laws, except the old, old answer, 'Difficulty!' 'Difficult, very difficult,' says the half-frightened statesman, as he turns from the poor gipsy child on the roadside. 'Difficult and very awkward are these little dirty black pests to deal with,' says the minister of Christ's Church, as he turns and passes on the other side of the way. 'Difficult,' says the miserly money-grubbing Christian, as he thrusts his hands into his pockets, on his way home from church through the market-place, where numbers of these poor, neglected children lie weltering in their dirt and filth. 'Difficult and very troublesome,' says the sanitary inspector, as he turns up his nose, muttering as he goes, 'They are not under the law, and they don't live in my district. They will be moving away soon. They are a terrible nuisance, but we can't help it.' And in this way he shuts his eyes and ears to the cries of the children, and in scant consolation passes along. 'Difficult, exceedingly difficult,' says the schoolmaster, as he passes by these poor, ignorant heathens on his way to a comfortable school. 'Who is to pay for the extra trouble and bother there will be in teaching these ragamuffins?' 'Who will care to send their children to school if these little urchins are allowed to come?'

We might fold our arms and stand quietly by this mass of human depravity, degradation, and misery, if there was a probability of its coming to an end by a natural death. Such is not the case. The gipsies and others of the classes I have referred to are on the increase every year. This arises partly

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from the desire to live idle lives, escape rates and taxes, and to be free to roam anywhere without let or hindrance.

Then, again, there seems to be a mysterious kind of human hydrophobia running through the old gipsy blood, viz., that of trying, by hook or by crook, to make as many gipsies as they can, by either stealing children, or fraternising with our road-scamp, tramp, and vagabond; especially has this been the case of late years. Of course there are honourable exceptions among the gipsies as with others; and there are numbers of respectable townspeople who take, owing to the facilities offered, to wandering up and down the country with their stalls; but in ninety-nine cases out of a hundred the tendency is downward. For the want of education, and being brought in contact with the refuse of society, the poor children, in too many instances, find their way into the gutters. I went to one of the races in the Midlands not long since on purpose to see how many vans, shows, and tents there were on the course, and found over eighty in which there were men, women, and children living together, regardless of either sex or age, under most demoralising circumstances. Connected with these places there would be between 250 and 300 children, not one—except a few in the winter—would be receiving any education.

My plan—which, I venture to think, is both simple and workable—for bringing about a better state of things as regards the education of the gipsy and other travelling children, and the better sanitary arrangement of their homes, is as follows:—

1st. I would have all moveable or temporary habitations, used as dwellings, registered, numbered, and the name and address of the owner or occupier painted in a prominent place on the outside, and placed under proper sanitary arrangements, in a manner analogous to the Canal Boats Act of 1877.

2nd. Not less than 100 cubic feet of space for each female above the age of twelve, and each male above the age of fourteen; and not less than 50 cubic feet of space for each female young person under the age of twelve, and for each male under the age of fourteen.

3rd. No male above the age of fourteen, and no female above the age of twelve, should be allowed to sleep in the same tent or van as man and wife, unless separate sleeping accommodation be provided for each male of the age of fourteen and for each female of the age of twelve; and also with proper provision for partitions and suitable ventilation.

4th. A registration certificate to be obtained, renewable at any of the offices of the urban or rural sanitary authorities

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throughout the country, for which the owner or occupier of the tent or van should pay the sum of 10*s.* annually, commencing on January 1 in each year.

5th. The compulsory attendance at school of all travelling children, or others living in temporary or unrateable dwellings, up to the age required by the Elementary Education Acts, which attendance should be facilitated and brought about by means of a school pass-book, in which the children's names, ages, and grade could be entered, and which pass-book could be made applicable to children living and working on canal-boats, and also to other wandering children. The pass-book to be easily procurable at any bookseller's for the sum of 1*s.*

6th. The travelling children should be at liberty to go to either National, British, Board, or other Schools, under the management of a properly-qualified schoolmaster, who should sign the children's pass-books, showing the number of times the children had attended school during their temporary stay.

7th. The cost for the education of these wandering children should be paid by the guardians of the poor out of the poor-rates, a proper account being kept by the schoolmaster, and delivered to the parochial authorities quarterly.

8th. Power to be given to any properly-qualified sanitary officer, school board visitor or inspector, to enter, and if necessary detain, the tents, vans, canal-boats, or other moveable or temporary habitations, at any time, or in any place, for the purpose of seeing that the law was being properly carried out; and anyone obstructing such officer in his duty, and not carrying out the law, to be subject to a fine or imprisonment for each offence.

9th. The Government to appoint one, or two, or more inspectors to see to the carrying out of the Act; and to work in conjunction with the local sanitary and school inspectors throughout the country; whose duties should be to visit the various fairs, races, markets, and other places where these wandering tribes are mostly to be met with, and to see that the law affecting the education of the children and the sanitary laws relating to the vans and tents are being enforced. The expenses incurred by such inspection to be defrayed out of the registration fee.

10th. It would be well if arrangements could be made with lords of manors, the Government, or others who are owners of waste lands, to grant those gipsies who are without vans, and living in tents only, prior to the Act coming into force, a long lease at a nominal rent of, say, half an acre or an acre of land, for ninety-nine years, on purpose to encourage

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them to settle down to the cultivation of it, and to take to honest industry—as many of them are prepared to do. The main features of these suggestions I have laid before several leading gipsies, travelling ginger-bread stall-keepers, show-people, and others, and, without exception, they agree to the plan I propose for the education of their children, and also to the registration fee for their tents and vans.

Mr. ALFRED WATKYNS, London, contributed a Paper on 'Public Latrine and Lavatory Accommodation.' The writer said that, for some years a resident in Paris, and a frequent visitor to the principal Continental capitals, he had had special facilities for observing the different systems that had been placed at the disposal of the public by local authorities or by private enterprise for affording the accommodation in question. In this country, on the other hand, it was true that certain facilities were provided at many of our railway stations; but the bustling crowds passing to and fro in our large cities at all hours of the day had either to intrude themselves upon the premises of the railway authorities, who were already hampered by want of room, and where, strictly speaking, the non-travelling public had no right to be, or to claim the hospitality of museums, picture galleries, and places of public entertainment. It was high time that this crying scandal should be put an end to: and if mock modesty only knew what the medical profession had to say on the subject, what pains were endured, what dangers run, what illness caused, and what evils wrought by this hypocrisy of refinement, then assuredly every unit in our city populations would agitate for the convenient dressing-rooms and lavatories that were provided as a necessity by every public institution, and which could not by any possibility be regarded as an eyesore, or as erring against public taste. It had been remarked by foreign visitors that it was a reproach to us as a nation that respectable men should be frequently driven into public-houses and taverns to seek that convenience which in their own cities was at a nominal charge placed at their disposal. As regarded women, the evil was still greater, as they were frequently obliged to take refuge in restaurants and confectioners' shops, and order refreshments they did not need, or to throw themselves on the tender mercies of millinery and drapery establishments, making purchases they did not require. The writer was no advocate for a course that might even seem to infringe on modesty, and thought it was undoubtedly better to err on the side of prudery than to inaugurate any system that could appear scandalous to English eyes. There was, however, a medium in

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all things, and it was possible to secure serious advantages hitherto difficult of attainment without any breach of good manners. The Paper proceeded to explain a scheme—which, instead of dipping into the ratepayers' pockets, would yield a revenue to the public coffers—for providing public lavatories, retiring rooms, and toilet accommodation, arranged for the convenience of both sexes, in the thoroughfares, squares, parks, gardens, and other open spaces of the metropolis, and the chief towns and cities throughout the United Kingdom, in the ornamental form of Swiss châlets. In Continental cities, Paris especially, public accommodation of this description, it was stated, had been in use for some years with the greatest success.

In a short Paper on 'Music Halls,' by Dr. NORMAN KERR, London, the author traced the history of this modern form of public amusement, which began about thirty years ago by the Manchester publicans providing sacred music on Sunday evenings, as a device to attract custom. Medical men in active practice were constantly called on to treat cases of dipsomania, the origin of which could be laid to frequenting music-halls, where intoxicating liquors were first indulged in. Many evils flowed from the present music-halls, but the sale of strong liquor was a greater evil than all the other evils put together. The young, especially lads and grown-up girls, were often tempted to drink by the pleasantness and fascination of the surroundings. There were nearly 300 Music-halls in London, and probably 1,000 throughout the kingdom. As drunkenness was generally prohibited, some persons had supposed there was no harm in this alliance between Bacchus and Apollo. But he (Dr. Kerr) knew a hall which took 30*l.* a night for alcoholic drinks, and could they doubt that an enormous amount of mischief was caused by the consumption of nearly 9,000*l.* worth of liquor every year by such classes as the audiences of Music-halls were usually made up of? Deeply impressed with these evils, the Lord-Lieutenant of Ireland, Lady Lothian, Lords Ducie, Monteagle, and Mount Temple, Dean Stanley, Canons Duckworth and Ellison, Sir Julius Benedict, Mr. Carl Rosa, Mr. John Hullah, Mr. Ernest Hart, Mr. Hodgson Pratt, and many others, formed a company for the establishment of Coffee Music-halls, with a capital of 50,000*l.* in shares of 1*l.* each. The Victoria Theatre in South London had been taken, and would shortly be opened as a Music-hall with a splendid coffee palace attached. Some 6,000*l.*, enough for this first experiment, had been subscribed, principally at drawing-room meetings at which addresses had

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been given by such representative men as the Bishops of Carlisle and Bedford, Lord Claud Hamilton, Baron Pollock, the Master of the Charterhouse, Mr. Arthur Locker, of the *Graphic*, and the Rev. H. R. Haweis. The enterprise was conducted on a commercial footing, the only plan to make it a permanent success. The prospects were encouraging, and the undertaking was one which afforded a common ground for action on the part of all who were interested in the moral health of the community.

Dr. C. R. Drysdale contributed a Paper 'On the Vital Statistics of New Zealand.' The author insisted on the great importance of obtaining a standard of health and longevity, so as to give an ideal up to which hygienic science should strive. In no European State, as yet, had that ideal been attained to. The birth and death rates, for instance, of England and of France were well known, and the death-rate in these civilised States had not hitherto in any decade sunk below 22 per 1,000. The death-rate of infants in the first year of life was often very high in European States. It was 60 per 100 in some parts of Bavaria, 17 per cent. in France, and probably as high in England, although the practice of registration being postponed for six weeks after birth made the English infantile death-rate appear to be only 15 per cent. The death-rate of infants among the richer classes (Ansell) was only 8 per cent. The birth-rates in Europe varied from 45 per 1,000 annually in some parts of Russia, 40 per 1,000 in Prussia, 36 in England, down to 26 in France, the country of the lowest adult death-rate in Europe.

Curiously enough it had been reserved for an island in the Pacific to furnish the ideal death-rate only attained to in Europe among the wealthy classes. New Zealand, with a climate in the northern island comparable with that of Italy, whilst the southern island was one comparable with Devonshire, has always been noted for its healthfulness ever since the voyage of Captain Cook.

The census of 1877 showed that the deaths in that colony were 4,685, equivalent to a death-rate of only 11·47 per 1,000 of the population; *i.e.*, not much more than half the death-rate of Great Britain. The islands being long and narrow, the sea-breezes penetrate into the interior everywhere. All domestic animals flourish exceedingly there. The birth-rate in 1877 amounted to 42 per 1,000. With that birth-rate and death-rate it may be easily enough calculated that the population of New Zealand will double, without country immigrants, in little

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better than twenty-one years. In 1877 the census showed a surplus of some 43,000 males over females in that colony, a part of that distressing surplus of females (nearly 1,000,000 in Great Britain and Ireland) only having the courage to emigrate. The rate of infantile mortality is only 10¼ per cent. in New Zealand, as compared with that of France, 17 per cent., or even of Norway, 14 per cent. The death-rate from pulmonary consumption in New Zealand is but 81¼ per 100,000 inhabitants, as against 257 in England. The cause of this very low death-rate of adults and infants was twofold. Firstly, it was due to the climate and occupations of the people; and secondly, to the great wealth of the population of that very fertile colony. The average yield of wheat was 31 bushels per acre, and mutton sold for 2*d.* or 3*d.* per pound, whilst wages in good times had been from 6*s.* to 8*s.* a day for labourers. In England the average age at death among the rich was 55 years, among the poor net 35. The population of New Zealand lived as long as the richer classes in this country.

In a Paper 'On the insufficient use of Milk as an article of Diet in England,' contributed by Dr. Dyce Duckworth, F.R.C.P., the author called attention to the high value of milk for all classes, children and adults; and in order to stimulate its use he urged the importance of increasing to a very great extent our grazing stocks, so that the crying want of a much better milk-supply for the whole country might be thereby met.

Dr. Drinkwater, Edinburgh, read a Paper 'On the Various Methods of Stating the Results of Water Analyses for Sanitary Purposes,' in which he advocated the desirableness of the adoption by analysts of one common method in stating the results of analyses, and the framing of their reports in a certain form to be determined upon after due consideration.

A Paper on the 'Edinburgh Town Water Supply,' by Mr. T. Ivory, was read in this Department on the morning of the last Wednesday of the meeting, and gave rise to an animated discussion. It partook, however, of a local rather than of a general character; and the Paper itself, having been admitted without notice, an abstract cannot be here inserted.

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ECONOMY AND TRADE.

PRODUCTION OF FOOD AND FOREIGN COMPETITION.

What Legislative Measures are required to leave the Occupier of the Soil freer than at present to Increase his Production of Food? And by what Measures of his own can the Farmer best meet Foreign Competition? By PATRICK PLENDERLEATH SELLAR.

ELEVEN years ago, the late Mr. George Hope's Essay on 'Hindrances to Agriculture' was published in *Recess Studies.* The paper which I have the honour to submit to the Social Science Congress I then drafted, in order that it might be inserted in the London newspapers, to assist in making the views of Scotch farmers, which were then being freely expressed at home, better known in England. A severe illness, however, prevented my completing the paper at that time.

Living in a remote part of Scotland, I have had a very limited opportunity of consulting the writings of others, and therefore I am obliged to state merely the result of my personal experience in my own case, and what I have observed in the case of others, during the forty years in which I have been engaged in agriculture. I have farmed arable and pastoral land in Sutherland, Ross, Argyle, and Morayshire, and in the two latter I acted as joint proprietor and factor also for several years. I have likewise had considerable experience in the management and letting of Highland Moors.

I have kept back from the paper no part of my experience.[1]

[1] Mr. Sellar stated that the only point of which he was aware to which he had not alluded was that lawyers should not fear a loss of business from simplification of transfer of land. Mr. Charles C. Grey confirmed this by stating that the business of a leading Dublin conveyancer had become more profitable after simplification of transfer in Ireland, as he now had less severe brain-work and responsibility in searching titles, for which he had formerly been unable to make adequate charges to his customers.

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Eleven years ago the first point affecting Land Law Reform was the Ballot. Farmers were so much under influence that they were practically without representatives in Parliament to state their case. This is entirely altered now, and Parliament will grant a just remedy, whenever a matter is clearly laid before it.

One of the greatest authorities stated, two years ago, as his opinion, that hypothec could not be abolished in less than ten years; that a stone wall of prejudice on the part of squires and agents met farmers in the face, but that it was their duty to continue with undaunted perseverance to hammer at that wall. To the surprise of everyone connected with agriculture, it fell suddenly down on the eve of a general election as miraculously as, it is reported, that the walls of Jericho fell before the ram's horns of Joshua. Hypothec reform has been for farmers the first fruit of ballot.

It is a happy circumstance, in regard to the consideration of the Land Laws, that the meeting of the Association for the Promotion of Social Science should this year be held in Edinburgh, where many of the leading Scotch farmers have been in the habit of annually considering, as members of the Chamber of Agriculture, all the reforms required in the laws affecting land.

There has, perhaps, been no time in which a discussion of the subject by the Association could have involved so great responsibility, and in which there has been a possibility of making its influence so widely felt. Government has announced its intention of amending the land laws. An opportunity is afforded of obtaining the assistance of the practical experience of the members of the Scotch Chamber of Agriculture, whose long-continued study of the subject should enable them to give sound advice. From the national constitution of the Association, it is also in a position to secure the assistance of Englishmen who have been engaged in the management of land, held generally under a tenure different from that which prevails in Scotland, who have anxiously watched the effect of the land laws in their country, and who have had an important part to play in the crisis through which agriculture in England is passing. It is to be hoped that the present discussion, under these favourable circumstances, may be conducted with so much care and consideration for the best interests of the country, that reliance may be placed upon the justice and prudence of the advice which may be tendered. All the changes necessary in order to correct the injustice and anomalies of the existing land laws should be boldly and faithfully set

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forth, while all over-statement should be carefully guarded against.

Already, thanks in great measure to the exertions of the Chamber of Agriculture, from the time when George Hope was its first, until now, when we deplore the death of its last President, Macneel Caird, whose services would have been invaluable at the present moment, the requirements of modern agriculture are much better understood than they formerly were. One of the greatest benefits of wise legislation is the influence it has on public opinion, which sooner or later comes to recognise the justice of the principles involved in any important legislative change. The abolition of the Corn Laws brought men's minds to agree almost universally to the principles of Free Trade; and we may, with perfect confidence, predict that a wise reform of the land laws will produce a general acknowledgment of the injustice of the existing legal presumptions against the tenant, which date from old institutions, different in the most important respects from those of the present day. Farmers should avoid agitating for any legislative measures which may be construed into a desire for protection to their interests, but they are bound to demand the abolition of all protectionist laws in favour of landowners. They have already found some of their most valuable allies among liberal-minded proprietors; while it is both the desire and the interest of the inhabitants of towns to support farmers in their just endeavours to obtain a freedom of trade similar to that which the mercantile community has, for many years, enjoyed.

In detailing the various changes required in the land laws, it is necessary to mention, first, very briefly, that farmers should be fairly represented at county boards, together with proprietors, in some equitable manner, in proportion to their assessments. Reform in this matter is more required in England than it is in Scotland.

The late Government, immediately before the dissolution, introduced, in a very hurried manner, important changes in the law of hypothec as affecting agricultural holdings in Scotland, which practically involve its ultimate abolition in that country. The law of distress in England and Ireland is as indefensible, as a question of principle, as the law of hypothec in Scotland; and there can be no substantial freedom of contract on the part of agricultural tenants in either of these countries, so long as the law of distress is maintained on its present footing.

We might have expected the present Government to com-

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mence legislation by dealing with that subject, along with the great questions of entail, transfer of land, unexhausted improvements, &c.; but the limited time at their disposal during the past short session, and their anxiety to do something, may have influenced them to commence with the Hares and Rabbits Bill, which we must look upon as an earnest of what they may do in the future.

This Bill has been passed by Parliament. It is described as being "a Bill for the better protection of occupiers of land against injury to their crops from ground game." Farmers will require to be very watchful, for the passing of the Bill alone cannot be held to insure that damage shall cease immediately. The Bill applies only to future leases. With regard to these, a tenant may preserve his crops and pasture by destroying rabbits and hares on the holding occupied by himself. There is, however, no provision made to insure that ground game shall not be bred on farms in his immediate neighbourhood, particularly during the existing leases on which they are held; and he may be called upon to incur the continued expense and endure the worry of having to kill down hares and rabbits where preserved in his neighbourhood. Proprietors, by the Bill, ought to have been excluded from parting with their inalienable joint right with tenants, as, where the agricultural or pastoral holding, and the game also, are let to the same individual, that man may preserve rabbits and hares, to the serious injury of adjoining farmers. As many as 12,000 rabbits were killed two winters ago in the North of Scotland on three farms, on which there were few rabbits formerly; and the great increase, indicated by this number, was caused chiefly by rabbits being preserved in the neighbourhood of two of the farms, by a tenant who held the farm and enjoyed the shooting also. Hares go greater distances for their food than rabbits. A man may keep coverts as a sanctuary for hares; they travel during the night to a neighbour's turnips, wheat, natural and sown grasses, and may be expected to remain and breed on the land, unless they are watchfully killed down. If it were possible, it should be made illegal for a tenant and proprietor to contract to preserve hares and rabbits, because they encroach on a neighbour's land. It is not sufficient for such proprietors and tenants to tell a farmer that he may protect himself from what is virtually a nuisance, which they combine to create in his neighbourhood; but it appears that no other means of defence could be suggested, by which a tenant might be preserved from this act of bad neighbourhood, except by his having the power of defending himself by

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possessing an inalienable joint right with proprietors to kill hares and rabbits. It has been maintained, by the greater part of Scotch farmers, that this power of self-defence should have been conferred upon tenants even during existing leases, not in order that they might have an advantage in their present contracts with their proprietors, but in order that neighbours might not be subjected to a nuisance. The ground vermin which formerly kept hares and rabbits in check have in recent years been entirely destroyed, and consequently ground game multiplies much more rapidly than formerly. It appears to be as unnecessary as it is unjust, that Scotch proprietors should have the power of injuring neighbours, for perhaps eighteen or nineteen years yet, by over-preservation. The Bill confers on farming tenants the right to shoot hares and rabbits. There is a danger that may, and probably will, arise from this privilege, that some farmers, aspiring to be recognised as sportsmen in a certain way, may be tempted to preserve hares and rabbits to the injury of their neighbours, and thus defeat the object of the Bill. Such pseudo-sportsmen ought to be reprobated by proprietors and all good farmers. The true sportsman can no more injure his fellow-men, than he can be unfair to animals.

The Bill ought to have conferred no rights for the sake of sport. Farmers should be purely men of business, and, if they aspire to occupy the position of sportsmen, they should pay for that privilege while the Game Laws last. The Highland sheep-farmers at Inverness market, in July last, in their desire to assist the Government to pass the Bill, although shooting is the usual mode of killing white hares, which are so destructive to their pasture, unanimously petitioned Parliament that they should be excluded from using guns, except in cases in which they obtained the proprietor's permission to do so; and they, as well as many thoughtful Scotch arable farmers, would have been satisfied to be allowed to trap and snare hares and rabbits freely, during existing as well as future leases. The sheep-farmers, in order to avoid exciting jealousy on the part of proprietors and sportsmen, expressed their willingness to be limited to six winter months for killing white hares, although the quiet trapper would not have done harm to grouse moors, by continuing to kill them until the 12th August, any more than he does by killing rabbits all the year. White hares multiply very rapidly—200 and 300 are often killed in one day; 700 have been killed in one day, and 1,900 in three days, on moderately sized highland grazings. They are more liable to die by rot than sheep, and in this way their numbers

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are often reduced, but when they are numerous sheep suffer much, and one gun is not sufficient for killing them down. Rabbits are most economically and successfully killed by trapping; indeed, it is only by the use of spring-traps that a farm can be entirely cleared of rabbits. Shooting rabbits, with ferrets, causes them to spread, so that they cannot be entirely cleared off the ground by snaring alone, neither can it be done by spring-traps to be used below ground, and the Act orders that spring-traps may not be used above ground. In this respect farmers are in a worse position than they were before the Bill was passed, because they had the power previously to trap rabbits with spring-traps, above ground, at all seasons of the year, except in cases in which the tenant had contracted himself out of his right to kill rabbits; and there have never been, in the North of Scotland at least, complaints of winged game being caught in the traps, used by the respectable professional trappers, who are employed to clear the arable and pastoral farms of rabbits. It is to be feared that farmers in Scotland have been deprived of the use of spring-traps lest foxes should be caught in England.

As the Act has now passed, it may be hoped that proprietors who keep shootings in their own hands will consider it due to their tenants, and to their neighbourhood, to cause their keepers to keep down ground game, and will make it a condition with gentlemen to whom they let shootings, that they should act in the same manner; and thus the farmer may be left free to manage his business without being called upon to undertake the duty of killing rabbits and hares, or to suffer the annoyance and loss to which he has, of recent years, been so much subjected in many localities.

The hearty thanks of farmers all over the kingdom have been earned by the Government, for the determination with which they persevered to carry the Bill through both Houses of Parliament in so late a session. It may be hoped that the result of its passing will be, that public opinion will be so changed, that it will be held to be improper to preserve hares and rabbits to the injury of tenants, and that over-preservation of ground game may soon be a thing of the past.

It may be necessary that there should be further legislation with regard to game before many years elapse. There are, however, larger and more important measures to be considered; and in the meantime, it appears proper merely to allude briefly to an anomaly which exists with regard to the rating for shootings, by which proprietors are exempted from paying rates on shootings which they reserve in their own hands. Where

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shootings are kept by proprietors for sport, they should certainly pay rates upon them, both as proprietor and tenant, in the same manner as if the shootings were let to sportsmen. Proprietors should also pay rates on woods. Where farms are improved by the expenditure of drainage-money, both tenants and proprietors pay rates on the interest on such outlay; while proprietors, who in many cases in the Highlands derive one of their most profitable sources of revenue from woods, pay rates only on the supposed grazing value of the land before it was planted. The rating for woods should be imposed in a fair and not extreme manner, due calculation being allowed for the cost of management. Deer forests should be fenced. The leading proprietors discussed this question ten years ago with the Rosshire farmers at Tain and the Highland sheep farmers at Muir of Ord. The very full meetings in both cases carried by large majorities the resolution that deer forests should be fenced, in justice to farms in their neighbourhood.

The first matter which the Government should take up next session is entail. Many entailed holders of land desire the abolition of the law of entail. They are very strong in Parliament, and it may be expected that they will assist the Government to pass the measure. It will be necessary for the Government to arrange a scheme of arbitration, or to devise specially by legislation an equitable mode for the compensation of heirs of entail. The existence of the law of entail has, in a great number of cases, the practical effect of causing the proprietor to neglect the entailed property, by reason of the obligation he is under of making provision out of his income for his younger children. He must bear in mind that every shilling he spends on the entailed property is taken from their portions. It is naturally, in many cases, his practice to make no improvement, and to select the tenant who promises the largest rent, and who will agree to the most arbitrary conditions about game, rotation of crops, and other important matters, without regard to his qualifications as a farmer. It is only necessary to consider the case of the owner of a property entailed in favour of the male line, who has a family of daughters and no son, and who knows that the property at his death goes to a distant member of the family, possibly to a man disliked by him, to see how entail may militate against the most improving class of tenant-farmers. It may be necessary that one Bill should be brought in for England and another for Scotland.

The abolition of hypothec, as it affects agricultural subjects, which was carried by the late Government, although that measure requires to be perfected, even in its present

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shape, renders it unsafe for an entailed proprietor to take as his tenant the man who offers the highest rent, without regard to other qualifications, as he is more liable than was formerly the case to lose his rent and have the farm thrown on his hands in a deteriorated state within a short period, by the failure of his tenant. In fact, hypothec was a necessary adjunct to the system of entail; it enabled the proprietor to rackrent with impunity, and at the expense of the tenant's creditors; and, as hypothec has fallen, entail, which leaned on it, is bound to come to an end also. All land should be held in fee as soon as may be practicable.

The holding and transference of land must be simplified. It is strange to a Scotchman, familiar with the perfect, easy, and safe transference of land in Scotland, and the complete system of registration of land titles which exists in Scotland, to see the difficulties which have attended all attempts which have been made, not to introduce a similar system into England (because the only consistent and uniform principle of English jurisprudence seems to be to despise receiving any hints from this country), but to introduce any system of simplicity and effectiveness. It is equally strange to see that in England there is nothing corresponding to the Valuation Rolls of property or Domesday books, which are annually published in every county in Scotland. One hesitates to advise where advice is not wanted. Before any improvement can be made there must be a desire and an effort to make it. But the awakening which seems to have taken place in England, and which has taken shape in the formation of the Farmers' Alliance for that country, gives reason to hope that she has taken a start in the direction of progress, and that, whether she follows in any respect the example of Scotland or not, she will no longer consent in such matters to be, both intellectually and practically, behind it.

It may, however, be interesting that it should be generally known that, in Scotland, without the necessity of waiting for the completion of Ordnance or other surveys, the titles of every acre of land, and all mortgages, are registered or copied in public registers, from which the ownership and burdens of every separate property can readily be ascertained on payment of reasonable fees; that a printed abstract of changes in titles and mortgages is annually sent for reference from the Register Office in Edinburgh to the local districts; that the completeness of this registration system supersedes the necessity of any undue care or anxiety as to the preservation of ancient title-deeds, because they can at once be reproduced from the

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register; and that in Scotland, as a rule, possession of property for more than twenty years under a registered title renders the right of the owner indefeasible. This term should be shortened.

It should be further known that the universal adoption of registration in Scotland was attained, not so much by compulsory enactments, or by the imposition of pains and penalties, as by the simple provision that, in questions of competing interests, with due precautions against fraud, the deeds first registered should receive the first preference. In Demerara, a British Colony, under Roman Dutch law, after advertisement for three successive Saturdays, land is transferred, and if no creditor objects, the transfer is registered at a very moderate expense, after which the purchaser has an indefeasible title. Those interested in the reform of English law should read the able paper in the *Westminster Review* of January 1877, on a 'Minister of Justice.' It admirably describes the difference between the Scotch and English systems of jurisprudence. England and Scotland were both under Roman Law during the first three centuries of our era. The fierce Norse invaders who succeeded the Romans substituted their own laws and customs for the Institutes and the Pandects of Justinian. The English have therefore, to this day, much confusion in their jurisprudence. Every change in law is accompanied with extreme difficulty, and this must continue to be the case until a Ministry of Justice with the requisite staff be appointed to perfect and codify their laws. The institution must be continuous to keep the law always up to the requirements of the time. Scotland adhered to Roman Law, which is still the basis of its jurisprudence. Measures, before they were submitted to the Scotch Parliament, were put into shape by the Lords of the Articles, and after Parliament approved of their principle they underwent another revision upon the responsibility of the Clerk of Parliament, before taking their place in the statute book. The Lords of the Articles were discontinued after 1690, but their place has been filled by the Lord Advocates, who, although they have not been properly remunerated, and therefore have not been made responsible for Scotch legislation, still had been trained along with other Scotch lawyers to the study of Roman Law.

The English no doubt refused to change their own laws by ingrafting those of Rome into their jurisprudence, from their strong love of liberty. This argument no longer affects the subject, and it will be acknowledged that the Scotch here

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maintained their liberties equally with the English. The institution of this office should inaugurate a reform and simplification of English laws, and economise the time of Parliament. If there had been a Minister of Justice, with Secretaries for England and Scotland, the Hares and Rabbits Bill might have been more perfectly adapted to the circumstances of both countries.

There should be no legal inference in favour of primogeniture as affecting land, any more than as affecting personal property. A man should be authorised to will real estate with as much freedom as personal; and in the event of no will existing, no preference should be given to an eldest son.

Leases of farms should be freed from the presumption that they must be inherited by the eldest son, for they are held to be heritable property. Proprietors and tenants should be free to make their own contracts, but the inference by law should be that a lease belongs to a man's estate, whoever may be his heirs. In the event of a tenant dying, or becoming incapable of conducting his business, his family or creditors should get the benefit of the lease. In such event the lease should first be offered to the proprietor, by arbitration; and, failing his acceptance, it should be sold to a suitable purchaser, with his approval; or, should he decline to approve of a fair tenant, the matter should be referred to the Courts, whose decision should be final. Under present circumstances, the lease falls to the eldest son, who may be a clergyman, a doctor, a resident in other countries, or otherwise incapacitated from conducting a very difficult and scientific business, and who probably would not have the required capital. By the process of collation, the lease is generally worked out by trustees for the benefit of the widow and family, with very unsatisfactory results to all parties concerned. It would be much more beneficial to the proprietor that a good practical tenant should be at once procured, whose interest it would be to add to the condition of the farm, instead of its being subjected to the inefficient, and often penurious, management of trustees.

After the abolition of entail, it will be much simpler to deal with the question of permanent improvements, because every landowner will then be interested in increasing the value of his property, and proprietors may be expected to join with tenants in devising equitable means for compensation for improvements, as both sides will be interested in the improvement of the land. At present the feeling of the entailed owner is adverse to compensation, because he fears lest he should have to pay for the amelioration of his property which his

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tenant may have effected out of that income which is his only source of provision for his younger children. It may be proper, to quote the words of the late George Hope, that 'all that the tenant puts into or on the land should be his property,' but by the old legal presumptions—which in this and many other respects are almost all adverse to the tenant—all this becomes the property of the landlord at, and frequently before, the natural expiry of the lease. The legal inference should be that the tenant has a right to compensation for houses, reclaimed land, roads, fences, drains, and the increased condition of the land from the use of lime and other manures and artificial feeding stuffs; and the proprietor should be compensated for all deterioration of his estate by the tenant's management. Experts must advise the Government as to what may be a just and prudent mode of defining the rights of tenants and proprietors in these matters, to secure equitable treatment for both sides. The inference that the tenant should be compensated for improvements should, probably, according to the precepts of political economy, be without prejudice to any special contract that he may enter into with his landlord. The fact that proprietors in England generally contracted themselves out of the Agricultural Holdings Act may be taken as a warning as to the probability of their desiring to contract themselves out of an Unexhausted Improvements Act, but it would be a great step in progress if the Bill were passed in a wise and equitable shape.[1] One Bill may be required for England, to suit the system of yearly holdings, common in that country, while another may be required for Scotland, with our system of leases. Scotch farmers, being freed from hypothec in future leases, will now be in a more independent position to treat with landowners, and they may generally insist on the Act applying more or less to their contracts. Even without the abolition of hypothec a large proportion of Scotch farmers did not contract themselves out of their right to kill rabbits. Should this change in law take place, it may be confidently expected that, on all well-regulated estates, it will become use and wont to give compensation, particularly after the abolition of entail shall have removed the chief obstacle to such a course. Estates, managed in a spirit behind the age, cannot be expected to participate in the general improvement, which must follow upon the security

[1] Mr. C. C. Grey explained at the meeting that although at the time of passing he Agricultural Holdings Act, English estate management was not in a position o allow of advantage being taken of the measure, well-regulated properties were now being prepared for the adoption of its principles.

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of investment which will be produced by compensation for improvements, and they will either require soon to follow the general progress, or, like other injudiciously conducted concerns, they will, after the simplification of transfer is effected, naturally come into the market, and fall into the hands of men of business, who better understand modern requirements.

It is only by long perseverance in a course of the highest farming that a tenant can hope to withstand foreign competition. He has to pay much higher wages than formerly, and he must obtain the services of the best men. He requires to have every improved implement, and the best descriptions of live stock; he must use oil-cake and extraneous manure with an unstinting hand. He must have at least £13 to £15 or £20 per acre invested in his farm, and his expenses, indeed, generally amount to three times his rent. His only chance is to grow the greatest possible crops.

Let us suppose the case of a tenant who has taken a lease of nineteen or twenty-one years of a farm which was exhausted at the end of the former tenure, as is often the case, and under the present system ought, with farmers looking to their own interest, perhaps always to be so. He proceeds to farm according to the most improved science; and with great skill, enterprise, and industry, increases all his crops from 30 to 50 per cent. He probably reclaims new land, drains, fences, and makes roads on his farm. He requires to build additional houses to accommodate his live stock, and to hold his grain and oilcake. He covers his courtyards to make the manure more perfectly. He improves his old cottages and erects new ones for his servants. The landowner pats him on the back and calls him a good farmer, but does not offer to provide the additional houses, or to compensate him for any of his improvements at the end of his lease. He too often, however, acquires them all before its expiry, by forfeiture, in consequence of the tenant having failed, through improving his farm to an extent not justified by his command of capital. In such a case, the tenant and his representatives or creditors ought to be secured by law, in a reasonable recompense for his expenditure, in so far as not necessary to meet the just claims of the landlord. Instead of receiving encouragement, the improving tenant may, at the expiry of his lease, find that a needy entailed owner, with a factor possessing, as is often the case in Scotland, no practical acquaintance with land or with agriculture, and whose only qualification for his office is that he is a solicitor, prefers to let the farm to an unprofitable tenant for a paltry difference of rent. The improving tenant is apt to discover

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that the proprietor and agent call his farm a fine one, and act on the impression that the rent of it cannot be valued at too high a figure for the new lease; while his neighbour, who may have reduced the adjoining holding to poverty, finds his farm termed inferior land, worth only a small rent, and he is treated with great consideration as a worthy fellow, who unfortunately suffered from very poor crops. The farmer who, especially towards the expiry of the lease, takes measures by which the condition is sucked out of the land—the most extravagant waste that can occur in farming—really deserves the praise of being the best man of business under the present system, But the leech's management will not last long. High farming will pay under proper conditions, and is the only farming that will hold its own in the present day. The high farmer is, however, handicapped by this circumstance—that no man can permanently increase crops 30 to 50 per cent. without adding, under ordinary circumstances, probably more than that proportion to the rent, and consequently to the value of the estate, because the expenses form three-fourths of the cost of production, and the rent only one-fourth. For example, a Scotch tenant, entering upon a nineteen years' lease of a farm of 500 acres in poor condition, with £7,000 of farming capital, at a rent of £700, may, by high farming, increase its intrinsic value £200 a year before the expiry of the lease. He must have had very great outlays, and have reaped small crops at first. To the loss at the beginning of the lease compound interest has to be added. He lives very economically. He often fails. However, if he survive that danger, he has good crops during the latter half of the lease; but it is too much to expect that he can be remunerated as a farmer, and also confer a bonus of £5,000 upon the proprietor, as an addition to his investment of from £18,000 to £20,000 in his estate. That is the value of £200 a year of increased rent at thirty years' purchase, the ordinary price of land, after deducting the proportion of burdens.

The only way in which farmers have been enabled to continue to improve land has been by the rise in the price of their live stock which they have sold in the latter years of their leases, and by the displenish sales at their terminations. The price of butcher's meat rose from 50 to 70 per cent. after Free Trade brought prosperity to British industry. A farmer, however, knows that in the face of American supplies, meat cannot be expected to maintain the recent prices, and it is hopeless, and not desirable for the welfare of the country, to look for its price continuing to rise, as it has done for the last thirty years, as an inducement to him, with a lease of nineteen

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years, to undertake improvements in which the proprietor is to share so largely. The farmer intending to improve land would be in a much better position by becoming the owner of it, and many proprietors may find it to be their interest to sell portions of their estates, and to clear off burdens upon them, rather than to continue to have them unimproved.

There are, no doubt, farms to be found in so high a state of cultivation that it is not easy to conceive how they can be further improved. In such cases the compensation for deterioration, which must form part of the legislation, will be useful to proprietors. Even in the case of the most highly improved farms it is probable that the cottage accommodation and farm buildings may be found to be behind the age before many years elapse. A man would either require compensation by use and wont for improvements, or to enjoy the increased value of the property, by farming his own land. So much did the late George Hope feel this to be the case that, after he left Fentonburns, he declared that he would farm land belonging to no one except himself.

A tenant, on taking a farm, cannot foresee what changes may occur during the nineteen or twenty-one years of his lease. Through the competition of foreign trade and the discoveries in science he may be called upon to undertake the cost of large permanent improvements. At the present moment he is impressed with fears lest his business may be swamped by American and other foreign competition. His capital is already seriously encroached upon by the late bad seasons and disastrous trade of the country. He may be already drawing heavily on the capital of the farm by reducing its condition—the last card which a farmer can play. There is still a hope for him in the reform of the land laws, under which he shall be compensated for improvements. He must trust to perseverance and industry and to acquiring scientific knowledge.

Farmers are already sending their sons to the Universities and to extra-mural classes, to become acquainted with chemistry, comparative anatomy, and veterinary surgery. The best farmers in every locality in Scotland are extensively making experiments to increase their knowledge of raising crops and feeding live stock most economically. There is a generosity and frankness among Scotch farmers which cause them to communicate to each other their discoveries and observations in a manner perhaps unknown to any other trade. Farmers have been much assisted in their scientific inquiries by the recently formed analytic associations, and by the advice of the able chemists by whom these are conducted.

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The twenty-four analytic associations of Scotland should unite to employ the chemist of greatest ability and zeal that they can obtain, one possessed of the genius for communicating knowledge and inspiring a love of science; a man, in fact, to act as schoolmaster to them. He should come to the various districts in March, meet the members of the local analytic associations, deliver a lecture to them, detailing the discoveries of the previous year, and advising with regard to the experiments that should be conducted in the coming season, and give explanations to make them understand the scientific reasons for the success of certain things which they are in the habit of doing, and the failure of other things. In every district some of the best farmers would be found to voluntarily conduct experiments. The chemist should inspect the crops during summer and autumn, and receive reports of weights by the end of harvest. He should tabulate the results and prepare a popular report, to be in the hands of the members of the associations by the month of January, to form a basis for them for next year's inquiries. If one or two hundred of the best farmers, all over the various districts of Scotland, would conduct experiments in this manner, an *esprit de corps* might be created, that should enable Scotch farmers to make much more rapid progress than has yet been attained. They should aspire to the position of being the most advanced farmers that exist anywhere. Farmers should keep the direction of the united action that should be inaugurated in their own hands. The expense of it would not be a great addition to the cost of the existing analytic associations, particularly when it is taken into consideration that these associations are still in their infancy, and that they may be expected to increase in numbers, in membership, and in influence. Similar efforts should be made in England. Mr. Lawes explains that the German and French Governments have been endeavouring to promote scientific discoveries, but there has been no centralised effort in England with this object.

If British, and particularly Scotch, agriculture is to keep its position in the world, farmers will require to raise still greater produce from the land than they have hitherto done, and for this purpose even more capital will be required than is now employed.

British agriculture is at present going through a revolution. It may be hoped that this revolution, as has been the case with all similar great commercial changes in this country, may be followed by prosperity, although it may be in the distant future. Our present and long-continued agricultural distress

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may be the means of bringing about a sounder economic condition of agriculture. It is impossible to foresee all the changes which may take place from the reform of the land laws. It is not necessary that these should be foreseen. Farmers must faithfully advocate those reforms which they believe to be just and wise, and must trust that good results will follow. A few Scotch farmers advocated the repeal of the Corn Laws and the importation of foreign live stock forty years ago, against their apparent interest; but the result of free trade has been to the advantage of their class, as it has been to that of the whole community.

Scotch farmers do not need to fear that the system of leases will come to an end. Leases are much more likely to be freed from antiquated restrictions, and to contain provisions for adapting them to changes of circumstances that may arise during their currency. The old hard-and-fast lines for regulation of crops may be expected to be discontinued, and land will be farmed in the manner that experience and science may show to be most profitable. Leases have existed in Scotland from the earliest days; and no one who knows England and Scotland can doubt that the self-reliance of the Scotch farmers under leases has been the means of raising agriculture in Scotland, notwithstanding our poor soil and Northern climate, to a much higher position than it has generally attained in England, even under the highly honourable feeling of confidence with which English tenants have trusted their landlords on yearly holdings. Many changes may occur, but we may hope that they will all result in good to proprietors, tenants, and workmen. It is not improbable that proprietors may adopt the system of re-valuing and re-letting farms four or five years before the expiry of the lease, and thus avoid the waste inseparable from the present system, under which tenants are forced to lower the condition of their farms towards the expiry of their leases, and to try to restore it again, at a great expense and sacrifice, during the first years of new leases. More men, too, may begin to farm their own land. If some proprietors choose to undergo the training for and to undertake the hard work of farming, they will be most beneficial in raising the status of the farming community. It may, too, be hoped that it will be in the power of some careful farmers to acquire land and manage it themselves, and such men will be most useful to the whole body of proprietors. Farmers probably will purchase land and pay mortgage interest upon its price instead of rent. It is to be hoped that there may be a great increase in the number of farmers occupying their own

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land, in a way similar to that in which manufacturers own their own mills. It may be long before this change takes place; recent farming losses must delay it, but it will gradually come into operation as time rolls on. At present, however, entail, primogeniture, and the cost and difficulty of transfer of land, especially in England, prevent by far the greater part of the land in England and Scotland from ever coming into the market at all, and, by unnaturally limiting the supply of saleable land, make it much more difficult for a farmer to arrive at the position of farming his own land. An anomaly exists with regard to probate duty which militates against a farmer acquiring land. He would in many cases desire his estate and farm stock to be sold at his death, to enable his means to be divided among his children. In such a case his whole property is held by law to be personal and not real estate, and his family pay probate duty, which is not exigible where an elder son succeeds to land. There is also a tax of ten shillings per hundred pounds on the sale of land. In course of time these financial matters may be put upon a more equal footing, and there may be a readjustment of the expense of roads and other things between the inhabitants of towns and the general public on the one hand, and the owners of land on the other. It is not to be anticipated that the present revolution in agriculture will result in large estates ceasing to exist. The tendency of most businesses to be carried on upon a large scale is becoming daily more general. Large estates are usually better managed than small ones, and farmers as a rule will acknowledge that they are most favourably placed by having their farms on a large estate, which often possesses a good agent.

It is difficult to foresee whether holdings of farms may become larger or not. In the meantime farmers' capital is materially curtailed, but on the other hand bankers and others are in a more safe position to make advances to farmers of known skill and judgment, because proprietors will not have a preference in future over other creditors. The improved facilities of transport of grain from abroad may cause more land in England to be devoted to the rearing of sheep, which can be most economically managed on farms of considerable extent. The economy in buildings, use of the best machinery, and the division of labour which can be carried out on farms of some extent, also point to the conclusion that farms are more likely to increase in size than to be subdivided. Small farms will be profitable for market-gardening and dairy produce in the neighbourhood of towns and vicinity of railway stations. It may be feared that the very small farmer in

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remote parts of the country, who may in agriculture be compared to the hand-loom weaver, will experience the greatest difficulty in meeting the competition of trade. There is a class of small farmers in Morayshire and the North generally, who, under improving leases, have been most enterprising in reclaiming land, and are independent-minded men. The poor Irish small farmer has gone through a most disastrous season. Even in his case the Portsmouth estates management of farms, from 11 up to 200 acres, shows how much good may be effected by liberal treatment. The tenant has a lease for life, or for thirty-one years, whichever lasts longest, and is compensated for all improvements, whatever they may be. The general result is thus summed up by Lord Lymington in the current number of the *Nineteenth Century*:—'The experiment of fifty-eight years' trial has been proved just and equal, because it has resulted in general contentment and material advantage to landlord and tenant. The landlord can with justice feel proud of an independent and prosperous tenantry.' May not liberal treatment of larger holdings be attended with similar success? The course followed on the Portsmouth estates cannot be prescribed by positive law, but if privileges are abolished, and if it becomes the interest of both parties to meet the views of each other, they will soon adapt themselves to the best modes of dealing. The function of the law should be to prevent and mitigate undue advantages on either side, and not, as at present, to create them.

Farmers must have patience with the Government. They may trust that it means to amend the land laws, but the difficulties which it will have to overcome in Parliament make it necessary that great discretion should be used in selecting the proper order for bringing forward the various measures. So many interests are affected that time will be required for maturing and perfecting the necessary changes in the laws. It appears that entail is the important key to the position, and when it falls other reforms will follow more easily. The present Government has not been in power more than a few months, and farmers must not forget how many years elapsed before the principle of Free Trade was established in this country. No doubt the experience gained in that struggle has trained the men who are in the Government, and given them a facility for dealing with legislation in the same direction which was not formerly enjoyed by statesmen. The disastrous times of the last five or six years may yet prove a future blessing to British agriculture, if, as it may be believed is the case, they have accelerated a reform of the land laws, which will place proprietors on a truer and

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sounder foundation, and which, it may be hoped, will put farmers upon a footing of equality with them in their business transactions.

Scotch farmers are not to be ultimately defeated in their war with fortune. Many have already fallen in the struggle; still the rank and file hold on, persevering with admirable courage, farming as highly as they can, taking advantage of every improvement, living with the utmost economy, and determined to fulfil their contracts like men or to fall like men. 'Sweet are the uses of adversity.' Already farmers all over the United Kingdom have manfully spoken their sentiments, led as they have been in Scotland by the Chamber of Agriculture; and we may hail with great satisfaction the spirit which the Farmers' Alliance in England has raised throughout all that great country. Farmers, both in England and Scotland, have been true to their principles; they have shown that they are not Protectionists; and, aided by the ballot, they have returned to Parliament many members who will advocate all that is wise and just in the interests of agriculture. The first steps in any true and lasting progress have ever come from the feeling of freedom and from the assertion of independence, accompanied as it is by self-reliance. Those farmers who are most courageous in resisting wrong are generally fair in their business transactions with their proprietors, and when treated with justice will be found to be well-conditioned men. Among Scotch farm-servants too, there are very many of nature's noblemen, who will brook no slight or injustice, and such men only are fit to be promoted to situations of trust. By just treatment on the part of masters the present good tone of their servants will be preserved, and it may be confidently hoped that under our admirable school system it will rise steadily higher in all manly and good qualities. When farmers shall possess the new hope, which they will enjoy as they come to see the land laws in process of reformation, there is no doubt that they will aspire to take an independent position, similar to that which has so long been enjoyed by their brethren the merchants and manufacturers of England. Their prosperity has increased, perhaps tenfold, since the adoption of free trade measures. Let us be assured that the progress of British farmers in skill, attention to business, and scientific acquirements may yet, in some measure, approach, even if it do not equal, that general advance which we have rejoiced to observe in the career of the mercantile community. It is mainly in consequence of the prosperity of the mercantile and manufacturing classes that British farming has so long held its own, in

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spite of the adverse effect of antiquated laws and customs affecting land. The chief hope that farmers in their present gloom possess lies in a revival of trade. Let us all trust that British merchants and manufacturers may yet be benefited by an improved home trade through the recovery of agricultural prosperity after a reform of the land laws, and let us not forget that agriculture is still the greatest of British interests.

On the Same. By James Melvin.

Over the habitable parts of the earth the bounty of Providence covers the surface with vegetation, and, independent of the agency or interference of man, the earth yields its annual increase of vegetable and animal life, and equally independent of his presence or action growth is followed by decay. Ashes to ashes is the fate of everything that lives. When the process of nature is closely watched it is seen that there is a plan in this growth and decay. It is apparent the forces of vegetable and animal life are superior to those of destruction as embraced under the head of atmospheric denudation; that in spite of the wasting effects of frost and rain, of heat and wind, a soil has been produced and is constantly forming from the action of vegetable and animal life. This makes the world habitable by increasing the means of food-production for a growing population. The forces of growth are ready to the hand of man: he adds nothing to their intensity. The primeval forest, the jungle, or the prairie may produce a growth of vegetation excelled by no cultivated crop. The agriculturist, therefore, can only change the direction of the force. He creates nothing, he only adapts to his use those powers of growth which nature supplies. The loam, or vegetable soil, being the product of previous generations of vegetable and animal life, their decay has left stored up those qualities which when entered on by the agriculturist for the first time afford food for years for the crops he cultivates, though manurial matters are not returned to the soil. The time, however, comes when the unaided produce of the soil, should everything grown on it be carried away, does not pay cultivation, and in old countries such as this it is the returning to the soil decaying animal and vegetable matter, in excess of what is taken by the crops, which constitutes improved agriculture.

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Notwithstanding the progress which has been made in many parts of this country in adding to the yield of the crops by this means, a very large portion of the food required for the supply of the inhabitants comes from abroad, and it is the price at which it can be supplied which regulates that obtained by the British farmer.

A hundred years ago all the accounts of the then state of agriculture represent the yield of the crops as being very poor. In Robertson's *Survey of Midlothian,* published at the end of last century, there is a statement given of the produce of Ratho Parish. I recently compared this with the present average, and found it to amount to one-third of what it now does. It is much the same over the Lothians. How has this great addition been secured? Largely by the tenant's capital adding to the productive power of the soil by increased manuring and deeper cultivation. In those days they sowed as they reaped—so do the present tenants. If the tenant, by high rents, other extraneous expenses, or personal neglect, fails to supply to his land the decaying animal and vegetable matter it requires to sustain its fertility, the produce falls short. This manurial matter must be bought. Where the landlord's rent or proportion is too high, the tenant has less to apply to the soil; and if, through the operation of laws which give all the tenant's improvements, tillages, and manures to landlords without compensation, the tenant suffers injustice, the produce of the land falls short and the country suffers. That such laws exist will be manifest before I have done.

Previous to 1770, when Scotland was a grain-exporting country, wretched as were the crops grown, in the more unfavourable seasons the price rose, and indeed the fiars prices of grain down to recently show a similar result when the grain crops were deficient. The agriculturist thus made up by price for the lessened produce. This state of matters no longer exists. In Scotland the farmer in the years 1872, 1877, and 1879 parted with his poor crops of grain at low prices; much of the grain, indeed, was of so bad quality as to be unsaleable, and was consumed at home in cattle-feeding. The cost of carriage by land and sea from abroad is now so reduced, and the fields which afford supply so extended, that the home producer competes with the foreigner unequally and disadvantageously. The circumstances may be shortly stated as follows:—

1st. The home producer has old cropped land to cultivate, which requires a full allowance of manure. The foreign

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grower sells unrestrictedly the produce of his virgin soil in the home market, and has no manure bill to meet.

2nd. In the United States, Canada, and Australia the agriculturist has no rent to pay, being the owner of the land he cultivates. He may have bought it for little more than half the annual rent the Scotch tenant pays for his.

3rd. The Scotch tenant-farmer has been hampered by land laws which were hurtful in the days of protection, and have become incompatible with freedom of trade.

The practice followed in the countries from which we derive our chief supply of food, of giving no manure, cannot be adopted here. If the land is not to be manured it ceases to pay in crop, and when left for pasture the return in grass is small. Indeed a large portion of land now under a system of cropping would not carry live stock sufficient to pay much rent if left in pasture. Those partially drained, thin clay, stiff, cold-bottomed soils which under fallow, wheat, beans, and clover have been let at full rents, if left in grass would after two or three years be worthless, while the cost of cultivation and the uncertain produce render them ruinous to the tenants at the full fixed rents under nineteen years' leases which have been provided for them. The only alternative with such land is to lower the rents, drain and lime, and graze for two or three years only. If these thin clays and naturally poor soils can still be kept under cultivation, it seems to me the whole country would profit. At present we are a great purchasing country and a great exporting country of manufactures other than the growth of the soil. If the same number of people who are employed now in this country in coal and iron mining had been entirely fed on the produce of our own soils, a greater population could have been supported, as more people would have been required to cultivate the soil. It therefore follows that if fewer people are employed in mining less food will be required, and if the number be withdrawn from mining and be employed in agriculture this country would be richer, as by good cultivation the soil maintains its fertility, less money is sent abroad for foreign goods, and we retain for future generations our coal and iron.

Then, again, the cotton and woollen goods we export amount to many millions sterling. We have to pay some seventy millions sterling or more for the wool and the cotton we import. It is, therefore, only in the difference between what is paid for the raw material and what is got for the manufactured goods by which this country benefits. I cannot

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join in the cry of certain parties who speak of our home agriculture as of little importance. It seems to me that if the manufacture of goods benefits this country, so certainly does the manufacture of food. Whatever is produced on our own soil benefits the whole people. What we import is only beneficial beyond the price paid for it. If, then, the highest material welfare, alike of labourers, producers, and capitalists, exists where the widest distribution of the products of labour is to be found, the more that is grown in our own soil the stronger and more powerful the nation is. If it is asked how it comes that the present depression of trade, which first showed itself in the United States of America, and which also affected France, has disappeared there, while we are still suffering, my answer would be: These countries grow the food they require, or nearly so, while in the United Kingdom we don't, and in recent years the shortcomings have been so serious that in Scotland the crops of 1879 would sell for six millions sterling less than an average; while from what I can learn English agriculturists would draw about £40,000,000 sterling less for crop 1879, and that crop was only one of a poor series. Of course there are other reasons, to which I need not allude here. Allow me to say that last year, with a small home-grown crop of potatoes and a good one abroad, the price here rose to 1*s.* per stone and upwards. This year, with a good home crop, the price is 5*d.* per stone. I hold the greater the home produce the more does this country prosper, and that whatever conduces to this result should have the support of the Legislature. The higher the manurial condition of the soil the safer it is for the landlord, the surer for the tenant, and the better for the public. The Legislature can aid this by conferring on the tenant a right to the manurial matter he has applied to the soil over and above what it contained when he entered on his holding, and making him liable for deterioration. Lord Kames, in the *Gentlemen's Farmer*, published in the year 1776, says that where the tenant 'has improved his land by costly outlays or limings, or other expensive manuring, were he to die and the lease fall, his representatives ought to be paid what sum the tenant's profits had fallen short of the expense.' Certain land agents and factors object to this as being difficult to ascertain. These same men have no difficulty in estimating the value of the land when a new lease is being entered on, even though the increase of value has arisen from the tenant's applications. With more technical knowledge there will be no excuse. A tenant, when he leaves his farm, ought to have just compensation for all his improvements which

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add to its letting value. Were this the law the average produce of the soil would be greatly increased, as the land would be like the tenant's bank. The law under this head can aid the farmer in another way. The Legislature has been strangely neglectful in the imposition of sanitary laws by allowing the most valuable of the sewage of towns and cities to be washed into the sea. Nearly the whole of the refuse of the food consumed by the inhabitants and animals could be returned to the soil in the shape of manure, save the dead bodies of human beings. The refuse of the food which is imported, and which is said to exceed one hundred and twenty millions sterling per annum, with all our own products, would add enormously to the increase of our crops could it be saved for manure. The waste of ammonia from every ton of coal burned is considerable, and none of it is utilised save that from gas coal and the consumption of shale in the paraffin works. Scottish agriculturists, I am informed on good authority, annually expend three quarters of a million sterling on foreign manure, besides more than a like sum for linseed and oilseed cakes for feeding cattle and manurial improvements. The nitrogen and other manurial elements washed away in such towns as Edinburgh and Glasgow would supply nutriment for the growth of crops on many thousand acres of land. In reality in this city the actual value of the street cleanings has diminished during the past forty years by increase of water-closets.

Though there are tenants farming land in the countries from which foreign produce is sent, proprietors are virtually the cultivators, especially in the United States, Canada, and Australia. Formerly in Scotland leases were often granted for two or three nineteen years, or for the life of the tenant. Lord Kames and the early improvers approved of such leases. Nineteen years is now the common length, and perhaps nine-tenths of Scotland is so let, though less is so at present on account of the depression and the difficulty of getting tenants without hypothec. Under a lease the tenant undertakes the whole risk. His capital must first go if seasons prove unfavourable. When he fails his creditors suffer, rarely the landlord. With a nineteen years' lease at a fixed rent per annum he is liable for the whole period, whatever the nature of the season, the rate of labour, the price of produce, or the cost of manure. In all other occupations such bargains would be counted speculative. In reality, in the purely agricultural districts, nineteen years' leases, while extremely beneficial to the landlord, have not been equally so to the tenant. Indeed, since the close of the French War in 1815, a great

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many of them have not been run to their close by the lessees or their heirs. In the more remote places leases have been more advantageous to tenants; and in certain hill districts, during the period that sheep and wool sold so well, they have been equally advantageous to the tenant and landlord. In the agricultural districts rents have always been fixed rather above than under a paying rate, as shall afterwards be explained. As an instance of the risk such engagements entail, and the responsibilities they incur, I have obtained the actual results of the costs of cultivation, rents, and produce of 1,200 acres of land in Midlothian, the rents of which were fixed six and eight years ago, in a medium climate, partly grazed and fairly managed.

The following is the cost of cultivation during 1877, 1878, 1879:—

Rent, £9,300, less £100 allowed for improvements	£9,200	
Manual labour	5,884	
Horse labour	3,570	
Manure bills	5,225	
Seeds, tradesmen's bills, all other farm accounts, interest on lime and drains, also cost of steam thrashing	6,244	
	——	£30,123
Total amount of the produce during these three years . .		23,395
Showing a loss of		£6,728

In other words, if the rent of land is the surplus after the expense of cultivation has been met, the tenants have paid their landlords £6,728 for the privilege of farming their land, and using their own capital over and above the produce the land has left. It thus appears that two out of the three years the landlords have been living on the tenants' capital. I am informed that many thousands of acres of land, similarly situated in the Lothians, have left like results; though around the towns, and in farms very favourably situated as to soil, climate, and rent, the tenants have not fared so badly. There were several favourable years before 1871, which tempted a greater number of incompetent outsiders to offer high rents for farms, many of which were accepted, and this caused a rise in rents on estates and farms adjoining. My own opinion, justified by that of several thoroughly practical men, is, that through the operation of the law of hypothec, the landlord's right to the tenant's improvements, and the desire of many people without skill or capital to get upon the land, certain law agents and factors have been enabled to

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raise the rents of one-fourth of the land in the Lothians upwards of 30 per cent. above its value; another fourth, 20 per cent., and another 10—not more than one-fourth being fairly rented. Last year, 1879, the actual deficiency of crop under an average year, to meet rent and expenses, not taking depreciation of stock into account, would amount to £700,000 in the Lothians alone, and £500,000 in 1877. This loss, save certain abatements of rent kindly given by some landlords, was borne by the tenants.

Mr. Patrick Sheriff, well known for his success in selecting and introducing numerous improved varieties of grain, wrote a book on North American Agriculture in 1835. He was then tenant at Mungoswells. He gives a description of farming in East Lothian, where he and his forefathers had farmed for generations. At page 334 he says such is the state of East Lothian farmers, that during the last twenty years perhaps three fourths of them have not fulfilled their original contracts, and the money that has been lost in cultivating the soil is incalculable.

'Mr. ——, of our acquaintance, on a farm of 100 acres ran up twelve hundred pounds sterling of arrears of rent, and got off by paying £200 sterling. The obtaining a lease may often be little better than being ruined, and many tenants after leading anxious lives, and exposed to insults of rent exactors, may think themselves fortunate if they escape with a remnant of their fortunes.

'The feeling landlords' agents and factors evince towards the tenants is so hostile that a small portion of the farmers originally connected with East Lothian obtain leases of late years. The new tenants come from other counties. It is of no consequence how respectable the old tenant may be in private life or high in his profession: a promise of rent, though not likely to be fulfilled, with subserving, in a stranger, is sure to get him the farm.'

'About fifteen years ago eleven tenants resided on a certain estate, and since then the effects of ten of them have been sequestrated and sold at the instance of the landlord; and on a division of an estate the tenants have all been changed twice in twelve years, and one of the farms has had four tenants, three of whom became bankrupt.'

That was the state of matters previous to 1835. In 1871 Mr. George Hope, then of Fenton Barns, when showing the farming of East Lothian to Mr. Jenkins, the Secretary of the Royal Agricultural Society of England, explained to him the history of the various farms they drove past, and Mr. Jenkins,

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in the Journal of the Society, in 1871, stated that over-renting, encouraged by the law of hypothec, had prevented a great many of the tenants from sitting out their leases. This statement was taken exception to by Mr. Nesbit Hamilton, Mr. Hope's landlord, at a meeting in Haddington, in March, 1872, where Mr. Hope explained that his remarks were conveyed to Mr. Jenkins when they were discussing the propriety of leases, and they were as follows: 'He had seen seven tenants in a farm during the past fifty years; also four, five, and six in others; and, on the average, he had seen at least three tenants on every farm in the county, and that there were only about twenty farms in the county in the hands of the same families. He did not say the people were not able to sit out their leases.' Within a week Mr. Hope got notice to quit his farm of Fenton Barns. This landlord and he are now gone. Within the eight years that have elapsed the loss of capital, change of tenants, and bankruptcies which have occurred on Mr. Nesbit Hamilton's estates have still further increased the list to which Mr. Hope referred. The history of the district of Mid and West Lothian I am acquainted with is somewhat similar to that of East Lothian. I can name several farms where there have been six and seven fresh tenants during my recollection, numbers of the tenants who have occupied their farms, taken for nineteen years, only two, three, or four years, and not a few who went out beggared after longer occupancies; many who, having saved something by industry and frugality during one lease, had their rents raised so high that they were thrown back to where they began during the next lease. There are, no doubt, several survivals—families of tenants who have withstood all the changes of times, and false, unfair competition. There have been reasonable landlords and fair-dealing factors and tenants who have prospered. There is, however, a feeling prevailing that many of the tenants who have survived owe their existence as tenants to other support than the land, and the two or three lucky speculators in farming who hold their six or eight leases, with perhaps only one family to keep, were fortunate in having a run of favourable years after their leases had been entered on. A very large portion of the fresh capital which is invested in farming comes from savings made in trade, and not from the land, and a large portion of late of the rental where there have not been private funds has been advanced in many cases to the tenants by their relatives in the towns to enable them to meet their rent due to the landlords. The royal commission now sitting, by investigating the position of tenants under nineteen years'

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leases, examining into the state of matters when they entered on their leases, and considering their present position, will do much to show how honourable men have been placed in false situations through one-sided, unfair laws. Their great liking to continue in the same farm and neighbourhood induces them to agree to terms against their own judgment.

Forty-five years ago Mr. Patrick Sheriff, alluded to before, a keen opponent of the Corn Laws prior to Messrs. Cobden and Bright and the League, attributed the want of success in farming among the East Lothian tenants to their being deluded by these laws into the belief that they maintained a high range of prices; also to the laws of entail, the game laws, and the other protective rights landlords enjoyed.

Mr. Hope, then of Fenton Barns, before this Congress, when last in Edinburgh, held that the false competition for land maintained by the law of hypothec and the landlord's claim on the tenant's improvements, aided by the game laws and those of entail and primogeniture, injured his success and diminished the produce of the country; and years ago Mr. McNeel Caird showed the unjust presumptions of law in favour of the landlord as against the tenant. Since then the steady, consistent, reasonable agitation by the Scottish tenant-farmers, through the Chamber of Agriculture, has led to hypothec being abolished after Martinmas 1881, though existing leases do not come under the Act. And now tenants entering on new leases can protect themselves from injury by ground game. Hitherto the game laws effectually prevented the tenants from meeting their landlords on equal terms when taking their farms, they having both hands tied through these laws. Now, however, the Ground Game Bill frees one of the tenant's hands. There is another form of competition which has affected the practical agriculturist. The law, the church, the medical and educational professions are all so far protected as to require training and licence before the individual is allowed to practise in them. Also many trades require long primary training before they can be exercised. Not so in farming on some estates; the offer of sufficient rent and acceptance of any conditions of letting, however one-sided, secure a lease; and a large portion of the land in the Lothians, where such competition has been excessive, has been so raised, from the multiplication of high offers by parties unacquainted with agriculture. The landlord, backed by hypothec, could choose anyone as tenant. If the prudent, cautious, skilful tenant declined to accept a lease on the landlord's terms, this law enabled the landlord to accept the incompetent, dis-

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honest, or speculative unskilled offerer when he promised the terms wanted, the law enabling the landlord to secure himself in the event of the tenant's failure. The innocent parties who supplied the tenant with the requirements for the farm suffered. I have known a person offering £4. 4*s*. per acre for land be accepted, and through course of years succeed in reducing the rent he paid to £2. 10*s*. per acre. In my neighbourhood four years ago a party offering £3. 8*s*. per acre for a farm was accepted, and in two years he was bankrupt. The farm was not worth 50*s*. per acre. As an adjunct to my farm I held for twenty years a grazing farm. The lease expired seven years ago. There was some arable land added. The tenant who succeeded me within three years desired a reduction of rent, was refused, but was offered to be relieved of his lease. He was glad to retire with the loss of a large sum of money. Another tenant was chosen, and on his death a third, the law keeping the landlord safe all the time. There are numerous cases of tenants who, rather than leave the land they have long occupied (were born on it perhaps), have had to accept of farms the rents of which have been forced up by such unfair competition. The Legislature has served out scrimp justice to the tenants under nineteen years' leases. When the importation of foreign cattle was allowed in 1842, the tenants under lease suffered severely from the panic and consequent low prices of live stock which continued for years. They also suffered from the same cause after the abolition of the Corn Laws. There was no provision in their favour in the Acts. So also when the Poor Law and Education Acts were passed. The tenants were taxed on half of their farm-rents, or on the costs of their business, and not on their house-rents, while the landlord was taxed on his income only. When the law of hypothec was considered by the Committee of the House of Lords, several of the advocates for the continuation of the law said fairly enough it enabled landlords to let their farms at a higher rent to tenants of inferior capital and credit without risk to themselves. The Lords in their approving report, page 13, say: 'That the law of hypothec does in this manner increase the number of competitors for farms, and must therefore tend to raise rents paid for them, does not appear to be disputed by the supporters of the law any more than by the opponents.' Now, then, since the law has been abolished, as perpetrating injustice, some clause should have been inserted by which tenants of farms who felt themselves aggrieved by the law, in having through its operation been compelled, as admitted by the Lords' Committee, to pay more than value for their

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farms, or leave the country, or 'calling,' should be entitled to a re-valuation, or be at liberty to give up their lease, being paid, as Lord Kames proposed, for their improvements. No such fair or reasonable clause has been inserted in the Act abolishing that law. Then, again, with the Ground Game Bill. The House of Commons refused to make that Bill apply to existing leases, even though the tenant offered to pay the value of the game so transferred to him. If tenant-farmers had been in a majority in the House the case might have been altered. The many thousands of cases of over-renting through unfair competition caused by hypothec will bear its bitter fruit for more than a dozen years.

In Scotland there is no question as to the fixity of tenure. The landlord's entire and complete title to the land he holds is never questioned. No one disputes his right to receive the full fair leasing value of the land he lets. What the tenant requires is that the law should, when it allows the landlord the privilege of leasing land he cannot cultivate, grant to the tenant a right to the capital he (the tenant) invests in the land. The owning of land in this country, where it cannot be increased, is a sufficient monopoly, and the possession of an article of limited extent, for which there is an ever-increasing demand, ought to satisfy the landlord. This confers ample power over the tenant, without the laws of which tenants complain. While landlords and other classes in the country have been largely benefiting by free-trade measures, the agricultural portion of the tenantry have not participated; and now that there are ninety thousand miles of railway in the United States, thousands of miles of rail, also, and no end of water communication in Canada, opening out their virgin soils, with cheap freights from India and Australia, the articles of food which require least labour to produce can be freely imported, and the price of home produce ranges accordingly. The cost of agricultural labour at home is nearly double what it was in the days of protection. Nor is it for the interest of this country that labourers' wages should be reduced, as, with railways running into every district, and our Colonies and the United States holding out great inducements to the labourer, the farmer would soon find himself left weak-handed.

Mr. Robert Lowe, now Lord Sherbrooke, has said, 'The people have a dominant joint interest with the proprietors in the soil,' and seeing that their giant strength is now acknowledged, they cannot exercise it in a nobler cause than helping the tenants of this country to obtain a fair field with no favour in which to exercise their callings. This they can do by helping

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to get the Legislature to give the tenant adequate security for the money he invests in the soil. When rents conform to what in justice they ought to be—the surplus, after interest on the tenant's capital, and the costs of cultivation are met—I have little doubt the land of this country could still be cultivated, and a full complement of robust and vigorous families maintained on the soil, the surplus from which would supply the towns with fresh blood; the breath of rural society would be sweetened, and the laws being just and equitable, the landlord would receive the full, fair value for the leasing of his land, the tenant's skill and industry would have its fair reward, while the labourer would justly share in the produce of the soil.

To enable tenants to make the most of the land for (1) the landlord, (2) the tenant, and (3) the nation, then, the following ameliorations in the conditions of land tenancy in this land of nineteen years' leases appear to me to be essential:—

1. The contract, so far as land tenancy is concerned, should be made a personal contract, and (1) the tenant should have right to assign, by deed of settlement or other deed, his lease to any member of his family he finds it to be most in the interest of his family to entrust it to; and also to assign it for a consideration during the currency of the lease to a stranger, *the original tenant, or his estate, remaining liable for rent with assignee.* (2) The tenant should have a right to his ameliorations on his holding, whether buildings, drains, tillages, manures, or others—these forming a fund of credit to him—under obligation to leave the same to his landlord on payment of unexhausted value, and making good to the landlord depreciation, if any. (3) Heirs of entail should have like power with fee-simple proprietors in making contracts as to land, and the absurdity of the "dead hand" controlling the living in the management of land be entirely removed.

2. The contract of hiring of land being a contract relating to a subject in which the nation is interested, contracts which prejudice these national interests should be void at law. (1) The removal of people to make way for deer forests and game preserves should be so voided; at least, the land so taken from national uses should be taxed by the nation at the rates it would bring in the market were it utilised for cereal and root crops and production of butcher's meat—the test valuation being the rental which lands of like quality let to tenants in the locality produce to the landlord. (2) The soil being a natural subject, the nation, in common justice to the leaseholding tenant who took his farm under other conditions than

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now exist, should modify existing conditions to the extent of such relief of rental or otherwise as a re-valuation under existing conditions would involve. In the re valuation (1) the tenant's competition with the food supplies of the world would be considered; (2) the fetters of hypothec and game destinations removed from future tenants which still attach to the leaseholder. Landlords, in their own interests, should do this; but since most of them have not done so, Parliament should interfere to compel all to this simple act of justice, which some of the best landlords have acknowledged and acted on.

The relations of the landlord and leaseholding tenant put on the above footing, and freedom of cultivation and growth given to the latter, he has a chance of facing successfully the competition of the world, and would, I have no doubt, endeavour to do so.

DISCUSSION.

The Hon. George Brodrick, in opening the discussion, said it was with considerable diffidence that he approached the subject, as he could not lay claim to being a practical farmer. He entirely agreed, however, with what Mr. Sellar had said as to England having much to learn from Scotland in respect of registration; indeed, he had never been able to understand why the Scotch system should not have been adopted in England. At the same time, if the question was to be dealt with in a comprehensive way by Parliament, he hoped we should look beyond Scotland and attain the most perfect system possible. We might borrow much from other countries, the system throughout the Continent and in America being vastly superior to anything known in England. He was astonished at Mr. Sellar's remark that in Scotland leases were heritable property, and, if that were so, then Scotland had something to learn from England, where leases were personal property, and would not go to the eldest son. With regard to the Scotch system of leases, he was inclined to give it the preference over yearly tenancy with tenant right; at the same time, in talking with practical Scotch farmers of late he had noticed a certain doubt as to the permanence of the lease system, and a tendency to think that under present circumstances the English farmer with his yearly tenancy might be in a more favoured condition than the Scotch farmer with his lease 'hung round his neck.' Speaking for himself, however, he would be sorry to see the Scotch system superseded; on the contrary, he looked forward to the lease system, in some modified form, being adopted throughout England. With what had been said by both the writers of the papers, as to the law of primogeniture and the custom of entail, he entirely agreed. He was inclined to expect more than most reformers do from the alteration of the law of primogeniture. He had given a good deal

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of attention to this subject, and he was satisfied not only that the direct operation of that law was greater than was usually supposed, but also that its indirect effect upon custom was very great indeed. The practice of entail he held to be most objectionable, and heartily wished that all land were held in fee; but, short of that, alterations might be made by law in the period allowed for settlement, and in the present mode of making settlements, which would be highly beneficial to agriculture, as well as beneficial from a social point of view. He believed that unsettled estates held in fee were, as a whole, better cultivated than settled estates. But the difference was not so great as one might expect, and some of the great settled estates in England, such as those of the Duke of Bedford, were as well cultivated as any that could be found. With regard to ground game, most of them approved of the Act which had been passed, and he gave Sir William Harcourt credit for having resisted the pressure put upon him last session, to apply the Ground Game Act to existing leases. Great stress had been laid by the opponents of reform on the sanctity of contract; as if there were not many contracts that the law at present prohibited. If he were to contract not to practise as a doctor, or a lawyer, or an auctioneer, such a contract would be null and void, as it would be in restraint of trade; and if a contract in restraint of trade were null and void, why should not a contract in restraint of good agriculture be placed in the same category? With respect to American competition, we did not sufficiently remember that the American farmer had only one advantage over the English agriculturist, viz. that he got his land rent free. Now, it was commonly said that rent did not exceed one-fifth of the farmer's expenditure; if, therefore, the American farmer had no other advantage, this saving of twenty per cent. was one against which might well be set the expenses of transit, the greater expense of labour, and other disadvantages. He desired heartily to support what had been said as to agricultural education, which had been grievously neglected. Foreign agriculturists, however inferior in other respects, owed a great deal to their better system of agricultural education. He looked to that quite as much as to legislation for the improvement of the condition of British agriculture, which he agreed with Mr. Sellar in considering the greatest of British interests.

Dr. Farquharson, M.P., remarked that although not a practical agriculturist, he had the honour to represent one of the most agricultural constituencies in Scotland, and he would venture to make a remark or two rather from the landlord's point of view than from that of the tenant's. He would also express his concurrence with what had fallen from Mr. Brodrick, upon the restrictive influence of entails upon the agriculture of the country. Entails were, on the whole, damaging and crippling to agriculture, but, as Mr. Brodrick had properly said, we should find many entailed properties as well managed as those which were unentailed. On such properties the buildings were kept up not from money borrowed, but from current income, because it was well known that provision for younger children under the entail law of Scotland, was made not out of the current income of the property, but by assessment on so many years, so that the proprietor is not compelled

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to set aside any special sum of money for his younger children, for the law already makes that compulsory. Here we got the advantages of the feudal system, so far that the proprietor generally lived on his own property, and took perhaps more interest in it. But we must allow that entail was one of those feudal customs which must eventually be swept away, before agriculture could be placed on the only true and proper basis, viz. a sound and commercial one. There was no reason why farming should be regulated by any other laws than those which regulate commerce, and among other things we should sweep away antiquated restrictions as to cropping, which had done more to damage agriculture than almost anything else. The law should be altered, to enable the farmer to do exactly as he liked in a twenty years' lease, up to the last three or four years, according to the arrangement beforehand. He should then be called upon to take a new lease or to put the farm into the condition of rotation under which it had usually been held, and if such a plan were adopted, it would contribute more than anything else to the advancement of agriculture. If agriculture were placed on a commercial basis, it would prevent fancy legislation in any form, such as absolute fixity of tenure, which tended to prevent any advance in the agriculture of the country. He would like to have the opinions of practical men on two points—viz. the question of peasant proprietorships, and the accumulation of large tracts of land by single proprietors. It was difficult to see why proprietors should not accumulate large properties if they chose, the same as large commercial interests absorbed smaller ones. If the land were used properly for the benefit of the State there was no reason why that should not be done. With regard to peasant proprietors, he would like to have the opinion of those present as to whether the drawbacks would not be equal to the advantages. Another point referred to by some of the more advanced preachers on land reform, was that all cultivated lands should be compulsorily improved. Mr. Bradlaugh, talking on land, had stated that the law should compel a large portion of waste lands to be taken into cultivation. People who talked in this manner ought to be better informed as to the character of the land of which they were talking, as large tracts of country which had been reclaimed twenty or thirty years ago, were now going back to their original state, simply because such land was not worth cultivation any longer. It was better to put such land under wood, or sheep, or even under deer. Though it was the custom to talk of deer forests as destructive of everything, he might mention that he had been told, that at a meeting held in Inverneshire, recently, the question had been debated whether sheep farming or deer forests had done most for the country; when, after considerable discussion, it was decided by a majority in favour of deer forests, as realising more rent and more money than sheep farms. With respect to the Ground Game Act, it was not improbable that the Legislature would be prepared to look favourably on a Bill brought in by some private member next year to make the Act applicable to present leases. They heard a great deal about placing agriculture on a scientific basis, but if Mr. Sellar would call at Aberdeen, and visit the School of Agriculture there, he would find it progressing very well, aided as it was by means of a voluntary

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assessment over the county. As to the soil being cultivated by a large number of persons, we saw the disadvantage in Ireland of too many people being on the soil.

Mr. WILLIAMSON, M.P., stated that, as he was not an agriculturist, he was unable to enter into the discussion of the details on agriculture, so far as practical farming was concerned. He had looked at the question more from a commercial point of view, as a merchant; and, after a visit to the United States last year, he took the opportunity of offering some opinions on the report of Messrs. Pell and Read. He had somehow got the impression, from reading their report, that they had somewhat softened down the actual position of affairs in regard to foreign competition. They took for granted that wheat could not be produced on the average at a cost of less than 47*s.* or 48*s.* in Liverpool; and they also spoke of the large increase in the population of the United States, which would cause a larger consumption of their own produce. The population of the United States was now close upon fifty millions, but, notwithstanding their enormous increase in number, their surplus had increased in an even greater ratio, and he believed they were perfectly able to increase that surplus and ratio, more especially from Minnesota and further west, by their connection with the seaport towns of the east. It was well that farmers and landlords should face these facts, and he hoped that all the hindrances that might exist in regard to the holding and tenure of land might be removed, so that our agriculturists might have a fair field. Entail must pass away, and there ought to be free trade in land. He looked on entail as bad, and as founded on an immoral principle involved in the law of primogeniture, both of which ought to be abolished together. In the next place, farmers must demand lower rents. Land was altogether at a fictitious value, far beyond its merits, looking at the vast extent of unoccupied land in the world and the cheap means of transit now existing; and this was the important fact that both the landlords and tenants must look at.

The Rev. Professor MACGREGOR (Edinburgh) said there was one question which he wished to ask: Ought landlords to have by law the power to depopulate country sides? In England it was not known how much that meant. The Duke of Sutherland had at present the power almost to empty Sutherlandshire of men, while Lords Macdonald and Macleod of Macleod might, if they chose, empty the Isle of Skye. It would be a dark day for the nation when the country became depopulated. At the time of the Peninsular war 10,000 men went out of Skye to fight the great Napoleon, while at the present time he hardly believed they could get 500 men. He could not see to the bottom of this important matter, but he would ask the able men present whether it was necessary or expedient that an individual who happened to have money should have the power of depopulating whole country sides? Surely people who had money should not be permitted to drive the manhood out of the country, and make us dependent on importations from Ireland and China.

Mr. MCLAGAN, M.P., remarked that on looking over the programme of the day he had expected to hear two great questions discussed: the one as to the legislation necessary, and the other by what measures of his

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own could the farmer meet foreign competition. He had been disappointed in not hearing more on the second point; he had come, as a practical farmer, to hear by what measures he could meet foreign competition. He agreed very much with the remarks of the two gentlemen who had given them such excellent Papers. On entailed estates, where they were extensive, we find as good farming as on unsettled estates; but when the same law applied to small estates the evils of it became prominent. Dr. Farquharson had stated that one advantage of the law of entail was that the proprietor was able to make provision for the younger members of his family by making settlements on his estate; but that he considered to be an evil. It was an advantage to the present proprietor to be able to do so, but an evil to the man who succeeded him. It swallowed up his rental, and unfortunately the practice of late years had been to look to the interests of the proprietor in possession, and not of those who succeeded him. He would, therefore, go in strongly for the abolition of entail. He trusted the time would come when more proprietors would be found farming their own lands. The greater the security the tenant-farmer had, and the nearer he approached to the security of ownership, the better it would be for agriculture. He would therefore advocate the doing away with the law of entail first, and, secondly, the simplification of the transfer of land as much as possible, so as to enable proprietors who had land at present, but could not dispose of it, to be able to do so in a simple way to gentlemen who wished to farm their own land. Mr. Sellar had alluded to the English landlords not having the same advantages as those in Scotland in the sale of land, and particularly in the matter of registration; but we ought to look to Ireland for an example, where they were able to dispose of land far more easily than either in England or Scotland. What the Legislature provided there was simple; but in travelling through Ireland he had found that, though the laws were good, the solicitors had reduced matters to such a state that they were gradually bringing back the old system which prevailed, and making it as expensive to transfer land as in this country. He trusted that, with this Government in power, two years would not elapse before we should have a simple mode of transferring land. With respect to the question of compensation for unexhausted improvements, he had always held that whatever money was laid out by the tenant should be his by presumption of law. It should be compulsory thus far, that the landlord should not have it in his power to dispossess the tenant of the property he had put into the soil, without giving solid compensation for it. It might be that the landlord and tenant might agree that the latter should lay out certain moneys on the land, and the landlord should at the end of the lease extend the term for a few years, to allow the former to get the whole benefit of the outlay. The compensation given to tenants should be worked out rather than laid as a burden on the land; for his great object was to allow the land to be broken up, and divided more amongst the people, which would be more easily done the fewer burdens there were on it. He knew a case in England where the landlord had been in the habit of allowing the tenant to lay out money in the improvement of the estate on condition that the tenant should be

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compensated on leaving his farm, the result being that this had been going on for several years, and had become a great burden; and, from the complicated nature of that burden, great difficulty would be experienced when the estate came to be sold, so mixed up were the interests of landlord and tenants. Whatever laws were introduced, while seeing that the interest of the tenant was duly guarded, we should take care that it should not be a burden on the land. He was sorry to hear the black list enunciated by Mr. Melvin as to the failures of tenant-farmers; he was happy to say, however, that Mr. Melvin was a living example of the reverse. What he had done was to take the three worst seasons there had been for the last twenty-one years, and to bring out a loss of something like £6,000. In this instance the landlord, if he had been farming his own land, would not have got his rent out of it, so that it was not the tenant but the seasons that were to blame for it. It was scarcely fair to take it in this way; they must not forget they had had good years before, and that the tenants under a lease had had the advantage of these as well as the disadvantage of the three bad years. He had no hesitation in saying that he should regret the day in which leases should be abolished in Scotland. The object should be to make them as beneficial as possible both to landlord and tenant. In the last lease he had granted, he gave the tenant full liberty to cultivate the land for the first fourteen years in any manner he thought proper, with this stipulation, that if during that time the laws of good husbandry should be violated, he, as proprietor, should have it in his power to refer the question to two practical men; and, further, that at the end of this period he should give notice to the tenant whether he should continue to farm for another lease, so that, if necessary, the farm might be brought into the proper rotation of crops. He was convinced that a liberal lease of this sort would be an advantage, not only to the tenant but to the proprietor, and also to the country in general. He was quite prepared to support all other legislative measures which would tend to the advantage of agriculture. He was sorry to see that existing leases did not come under the operation of the Ground Game Act; but if any Bill to effect that were introduced he would be prepared to vote in favour of it. Leases ought to become personal property instead of heritable. Mr. Williamson had said that tenants should demand lower rents; but he did not agree with him, as that sounded a little too Irish-like. We might depend upon it that matters would adjust themselves, but it was a very different thing to demand this. He believed, however, that in a short time, with the great competition which was taking place, landlords would fully enter into the question with their tenants, and endeavour to adjust the rents in accordance with the present circumstances and the great competition to which the tenant-farmer was now exposed.

Mr. W. Botley (London) congratulated Mr. Sellar on his able Paper. He himself had read a paper before the British Association at Edinburgh in 1871, in which the chief principles laid down had been corroborated by Mr. Sellar. He had also, as a member of the Royal Agricultural Society of England, twenty years ago distinctly advocated the better education of the agricultural interest, since which time that

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society had been advancing education in many respects. He would also advocate long leases; that every farmer should use all the capital he could in farming to the best of his ability, and have compensation for all unexhausted improvements; for otherwise we could not expect skill, capital, and industry to be thrown into agricultural pursuits as they were into the commercial transactions of the country. With respect to game, he fully agreed with the remarks of Mr. Sellar. He had seen virgin soil which would have yielded ten sacks of wheat per acre, so swarmed with rabbits and hares as to produce only two or three sacks; therefore it was a satisfaction to see that the Government had carried through the Bill, although he hoped they would legislate still further in the same direction. It is not only what the ground game devour, but the poisonous nature of their excreta on the young plant, which render them injurious to the farmer.

Mr. Falconer King (Edinburgh) had listened to the two Papers with great pleasure, and was ready to support the major part of the points brought forward. He would only take up the time of the Section with a reference to one subject of which he had as much experience perhaps as any man in Scotland, viz., the application of science to agriculture by means of farmers' analytical associations. They had heard a great deal of the land laws, and the many ways in which farmers were handicapped, but he believed they (the farmers) did not take proper advantage of the powers at their command to turn out to the fullest extent the produce of their farms. In Scotland science had been in one way applied to agriculture, and had yielded very beneficial results. He referred to the establishment of those analytical associations of which Mr. Sellar had spoken. At the present time there were somewhere about twenty-five of these associations, to twenty-one of which he had the honour of acting as chemist. Farmers spent a great deal of money needlessly on feeding stuffs and manures, and it often happened that the manure bill, including the bill for cake, equalled, if it did not exceed, the rent, while the farmers in the majority of cases bought their manures and feeding stuffs without the slightest knowledge as to their composition or value. It was no unusual thing to find farmers paying 7*l.*, 8*l.*, and even 9*l.* per ton for material which could be easily bought for half that money. Farmers generally said that, so long as they got a good crop, they did not object to pay a little more for manure. In a case in which he was now engaged material was actually sold and used which cost somewhere about 7*l.* or 8*l.*, while it was positively worth not more than 30*s.* at the most, and its use had resulted in the total loss of the crop for the year. If farmers would more generally institute those analytical associations it would be the means of saving them a vast amount of money. Some farmers paid upwards of 1,000*l.* a year for their manure bill, and in some cases they might save at least 300*l.* or 400*l.* if they went to work in the proper way. With regard to the scientific education of farmers, it was no exaggeration to say that in the majority of cases they were perfectly ignorant of even the elements of chemical science. This state of matters was coming to an end; farmers were getting into the habit of sending their sons to

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chemical schools, and this practice, it was to be hoped, would before long become more general. In connection with the analytical association started in Inverness, the result of the first year's working was a saving of no less than 3,000*l.* in the manure bills of the farmers of that district alone. If they multiplied this by the number of districts in Scotland they would have some idea of the enormous amount of money which at present was simply thrown away. If farmers, then, would direct their attention, first, to the proper education of their sons, and of those who were to succeed them, in science bearing on agriculture; and, secondly, to the establishment of those analytical associations, farming would become a much more profitable occupation than it was at the present time, even though the game laws and land laws were allowed to remain as they are.

Mr. W. C. Sillar (London) said that one speaker had remarked that the price of land was too high; but Sir Henry Culpepper had stated that society would never prosper until the value of land was so high that it paid a man better to invest his surplus wealth in improving what he had, in preference to buying more. These were wise words which deserved to be written in letters of gold. The competition with America was very serious, and we must look it in the face. So long as the people in the towns were applying to foreign countries for their food supplies, and so long as the farmers went abroad for their manure supplies, we were burning the candle at both ends. The country was using its resources to feed the towns, and so the towns must reciprocate by sending their waste products back to restore the country to its original condition. When agriculture suffered, everything suffered. The utilisation of the sewage of towns would be treated in another Section, and he would only call in question the remarks of the last speaker, who said the farmers should trust more than they did to analytical chemistry for the value of their manures. It was a remarkable fact that the manure preserved from the sewage deposit had this peculiarity, that the amount of the crops was wonderful, while the analytical valuation was comparatively small. One grain of oats manured by what had been saved from the sewage of the town of Aylesbury produced in the autumn 7,000, and yet the manure producing it had a low chemical analysis. Professor Crookes had said that the ordinary methods of chemical valuation were totally at fault in putting a valuation on that manure. If the shameful waste of the towns was no longer allowed to continue, and the farmers appreciated the manure which was at their doors, then they might expect to see the land restored again to a condition of permanent prosperity.

Lord Reay expressed the great pleasure with which he had listened to Mr. Sellar's very valuable paper. Contributions to the land question by men having the practical experience and knowledge of Mr. Sellar, and his impartiality and fairness, will extinguish a considerable amount of one-sided argument. He was pleased to see in Mr. Sellar's paper no expectation that what the French called *petite culture*, or small tenancies, would prove, in Scotland at any rate, the certain solution of all agricultural problems. He was not going to say a word against cultivation on a small scale in those parts of the

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country where it could be encouraged; and in parts of England experiments should be tried by landlords not only in letting land in small tenancies, but also in selling where they had or could obtain the power of doing so in small plots. In the manufacturing districts of England, in the neighbourhood of large towns, in rural districts, where market gardens and orchards could be laid out, he should not be opposed to so-called small cultivation; but in most parts of Scotland, where they were dependent more and more on sheep-farming, he did not see his way to agriculture on a small scale, and he was glad to have Mr. Sellar corroborating his opinion on that subject. There was undoubtedly not only political economy to be looked at, but also sociology, and he did not deny the great importance to the social condition of England of increasing the number of proprietors. The more interest the people felt in the tenure of land on sound conditions, the more should we guard against experimental or rather *dilettante* legislation. There was the great danger that if the landowners were a small class, that class would be legislated for unwisely by the members of other classes who formed an overwhelming majority, and who were ignorant of the special interests involved, and that ignorance had been somewhat illustrated in the debates on the 'Hares and Rabbits Bill.' He agreed with many of the points touched upon by Mr. Sellar in connection with that bill, as not offering sufficient protection to agriculture as such; the fact, for instance, that it entirely overlooked the possibility that a landlord might let the shooting on a large estate to his tenants, and that these might combine to set up a strict preservation of game. A statement had been made that the results of British agriculture were not so satisfactory as the results on the Continent. He might say in vindication of the energy and knowledge and talent of our farmers that that statement was not confirmed by statistics. The production per acre in the United Kingdom was undoubtedly larger than in most, if not all, other countries. What we required chiefly was more capital and more knowledge to bring our agriculture up to the highest pitch, and he agreed with Mr. Sellar that high farming was probably the only farming which would pay for some years to come. The landlord, the factor, the tenant, and the farm servant were the people who had at present to do with the land. The best combination we could have was a factor who knew as much of agriculture as in many cases he knew of law, a landlord and tenants not untrained for the business, because it was a business to be a landlord as well as to be a tenant, and the agricultural profession required training, as all other professions. The landlord ought to have capital, and if he had none, he ought to be thankful to get a tenant with capital, who should have every possible encouragement to put it into the land. As only trained landlords and factors could determine whether the capital was invested judiciously or not, knowledge of agriculture was the best protection which could be given to tenants and landlords in their dealings with each other. That knowledge would also prevent landlords from letting their farms to incompetent persons. Where the notion that agriculture was a profession was ignored, both landlord and tenant

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must become the victims of their ignorance, the one having his land deteriorated, the other losing his money. The worst situation was a factor ignorant of agriculture, a landlord in the same position, the landlord and tenant both without capital, or, if they had capital, laying it out injudiciously. They had been told in one of the papers that a tenant would not have been able to pay his rent but for capital invested in other businesses; but he would ask whether cases might not be mentioned in which rent had not been paid because of money having been invested and lost elsewhere than on the farm. There were two sides to this picture, as to every picture drawn in exaggerated colours. What we had to aim at was to give every possible encouragement that capital should be put into the land; to give every possible security by law to those who invested capital judiciously in their own land or that of others; to raise the agricultural credit; to annihilate all difficulties in the transfer of land. Land should come into the market in more varied quantities, and people should ascertain where it was beneficial to buy or hold land in small quantities, but, above all, what capital was needed to succeed. How we could go further without doing more harm than good by very doubtful legislative experiments, which had not succeeded in countries where they had been tried, he did not know. His impression was that with agriculture, as with all other things, the more we left to perfect freedom, and the more we left people to settle matters between themselves, educating them for that purpose, the better it would be, and he would certainly say that of Scotland. Mr. Sellar's Paper bore this out; if we left him and men like him to deal with the land under a lease safeguarding both their interest and that of their landlords, on the one hand the proprietors would not lose their rents, while, on the other hand, the gloomy prospects of agriculture would fade away before the higher knowledge and greater capital applied to the cultivation of the soil. And though he did not for a moment say that the imports from America were not an important factor, he firmly believed in our agricultural future if we only did not in any way crush or hamper any energies which were latent both in landowners, capitalists, and tenants. It was an extraordinary delusion that these two classes should fancy themselves opposed to one another just at a time when there was most need for concerted action; this antagonism would simply be disastrous to all parties, and the question must be solved by more careful consideration of the requirements of agriculture. A shrewd Scotch landlord and a shrewd Scotch tenant are quite as able as a Liverpool or Birmingham merchant to arrange their own concerns, and are all the better for being left alone.

Mr. C. G. Grey (Westminster) said that there was a sentence in Mr. Sellar's Paper which had struck him. It was to this effect—that one of the benefits of wise legislation was the verdict of public opinion, which sooner or later came to recognise the justice involved in any legislative change. He believed that that applied to the Agricultural Holdings Act, which had been denounced by all people as a sham. He was not going to propound his opinion that some such legislation should not be made compulsory, but he believed it would be proved when the

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report of the Duke of Richmond's Commission came out, that the effect of it had been such that on nine-tenths of the estates of England there had been a great many changes. He had long advocated simplicity of transfer, and he did so from an experience of many years in Ireland, where he saw the great advantages which occurred there. The simple transfer of land, too, would be most advantageous in the interests of the lawyers, and there would be no question as far as the public were concerned. If the law of entail did not exist, land now unimproved could be so divided that the proceeds of the sale of part could be applied to the improvement of the rest. There would then be a greater number of proprietors, and a much higher state of cultivation,—farmers then becoming the proprietors of the land they farmed. Although he knew a good deal about Scotland, he had only now learned that leaseholds must descend to the eldest son.

Mr. T. R. Buchanan (Edinburgh) said he had had occasion to study, to a certain degree, the political aspects of agriculture. He desired to call attention to two points on which he had expected to have received further information, and which he hoped would have been more fully discussed by the meeting. The first of these was as to the actual amount of foreign competition to which this country was now exposed. Mr. Brodrick, in his estimate, indicated it to be a difference in rent of something under 20 per cent.; while Mr. Williamson had alluded to the great diversity of views as to the price at which a quarter of American wheat could be delivered at Liverpool. Seeing the great diversity of opinion on this subject, he had thought it was one which would have called forth a considerable amount of useful discussion. They had been informed by Messrs. Pell and Read that wheat could not be brought over from America and sold profitably at Liverpool under 47*s*. or 48*s*. per quarter; others fixed the price at 40*s*.; while others again estimated the cost at 33*s*., and even lower. There was here a great and important disparity, and so long as such an element of uncertainty existed, it necessarily followed that great uncertainty would exist as to the deduction to be made therefrom. Perhaps the truth was that American competition had developed so rapidly that they had not had time properly to estimate its actual value, so as to determine reliably what might be regarded as the average cost of American wheat in England. This great uncertainty led him to mention the second point to which he wished to direct attention, viz., the various strictures made in Scotland on the nineteen years' lease. He was not aware that there was any particular magic value in the exact term of nineteen years. He believed that a good deal of the dissatisfaction which had latterly prevailed with regard to that form of lease had been due to the increased foreign competition, which had thrown all the ordinary calculations out of gear, and shown such a period to be too long for any man to enter into an agreement and be quite sure that circumstances would remain the same during the continuance of that agreement. He expected to have heard some statement as to the best period for leases in future throughout Scotland, whether it was possible as yet to determine how much they should be permanently shortened, or whether in this period of transition some short period might not be

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devised, until they knew with some measure of certainty what was the extent of foreign competition they had to deal with. Within the last few weeks he had heard of a temporary arrangement being arrived at. The nineteen years' lease of a farm had expired. The former rent was 1,300*l.* a year, and the farmer was willing to renew, but at a considerable reduction. The landlord advertised the farm, but there was only one offer, and that one was not accepted. Eventually an agreement was come to with the old tenant, at a reduction from 1,300*l.* to 800*l.*, while the lease was not for nineteen years, but only five years. At this remarkable stage in the history of agriculture, he was of opinion that this question concerning the duration of leases was a most important one.

Mr. Melvin, in replying, said that Mr. McLagan, if he understood him aright, was scarcely fair in the criticisms he had made on some of his remarks, and had appeared to treat what had been said as to the farmers' losses rather lightly. In referring to the general effects of the land laws, it was a well-known fact that proprietors did not like to hear much about these losses of the last two or three years; although, if any farmers had been present, they would have fully borne out his statements. Mr. McLagan might have viewed the question in a little more kindly way, for it was a fact that the tenantry in Scotland had been incurring serious losses. Indeed the matter was so serious that, however unpleasant it was, he had deemed it his duty, when asked, to come there and state clearly the opinion he had with regard to these losses. He was sorry to see few tenant-farmers present, and so he had no backing in that way. Mr. Falconer King seemed to think the tenant-farmers as a rule poohpoohed science, which seemed rather unfair, when they remembered that it was a tenant-farmer who originated and the tenant-farmers of Scotland who had supported the first chemical association nearly forty years ago. Unfortunately, however, the chemists had not done much for agriculture; they had only acted as policemen or detectives in finding out fraud, without doing much in the way of giving instruction, or of increasing the farmer's knowledge of his business.

The President (Sir Ughtred Kay-Shuttleworth, Bart.), in closing the discussion, said that Mr. Sellar and Mr. Melvin deserved their thanks, as their Papers were of great value. As an English politician and landlord he confessed that he had learned much from the debate, and he would express his personal gratitude for the manner in which the proceedings had opened. He was rather struck with a conclusion at which Mr. Melvin arrived when he said the Legislature had served out scant justice to the tenants under the nineteen years' lease. Now, what could the Legislature do? The real remedy seemed to lie in greater common sense and enlightenment amongst the landlords as to their true interests, and in experience among farmers preventing their competing, as had been for some time the case, in order to get possession of a piece of land. Some system of tenant right should no doubt be established, which would secure to the tenant the value of his unexhausted improvements. They should not suppose, however, that they could not help themselves, and that they must run to the Legislature to help to remedy matters which were in their own hands. It had been re-

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marked that there was far too much tendency to rush to the House of Commons when the remedy lay nearer at hand. With regard to Mr. Sellar's Paper, he agreed as to the importance of farmers having a fair representation upon County Boards. On the point of the rating of game, Scotland might learn something from England, the law on that question being there in advance of Scotland. The expression made use of by Mr. Sellar in respect to the rating of game could not be applied to the English law, under which a landlord keeping game for his own purposes was rated just as much as if he let it. Reference had been made in the course of the discussion to obsolete restrictions which obliged tenants to crop in particular ways. These were very abundant in English agreements, and resulted very much from the fact that lawyers prepared them by simply copying them from the old leases. Experience had, however, taught the more enlightened English and Scotch landlords that such restrictions, except during the last four years, were exceedingly inexpedient, and he hoped the publicity given to this subject might induce lawyers to substitute for the yearly clause one simply imposing a restriction on the last four years. He expressed the pleasure with which he had heard of the action of the farmers in Aberdeenshire, and the voluntary assessment they had put upon themselves, and he hoped the example would be followed in other counties. Mr. Falconer King had said that farmers, as a rule, were ignorant of chemical science, but farmers need not be sensitive about such a remark, for if they took the members of the Association, or any other body of men, the same might be said about them. But he would ask Mr. Falconer King whether agricultural chemists themselves had got beyond the mere rudiments of agricultural chemistry? His own strong impression was that the science was in a very rudimentary condition, and that what was needed now was that men of great authority, and of thorough scientific training, should give themselves up not so much to making analyses of manures for farmers, as to entering into the science and principles of agriculture, and investigating the reasons why particular soils require particular manures, and what are the manures best calculated to bring out the good qualities of various kinds of land. He believed that something had been done in that direction, but it was easy to overrate it.

LOCAL GOVERNMENT.

The Differences of Local Government in England and Scotland. By William C. Smith.

THE subject on which I have thought it might be useful to say a few words to this Department refers to the differences of local government in England and in Scotland. It is a subject so large and complicated, and the time you can give me is of necessity so short, that all I can hope to do is to draw

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a general outline. The detail of statistics is quite impossible, but I have no doubt there are many present who from special knowledge will be able to fill up my outline, and I trust my Paper, if it serve no other purpose, will at least be the occasion of a valuable debate.

This Congress is understood to conduct its deliberations on a platform far above the struggles of political life; but I think there can be no harm in alluding to the fact that Local Government is at present an intensely practical question. It has been made so chiefly by the elaborate inquiry and able Report which are associated with the name of Mr. Goschen. At present, no doubt, the Parliamentary movement is confined to England, and in England to the establishment of county boards. But county boards cannot be wisely constituted without the most careful survey of all existing authorities for local administration; and since the principle of representation in county matters, when established for England, will certainly be extended to the sister countries, it seems most desirable not only that those who are going to legislate for England should know how things are managed in other parts of the United Kingdom, but that the whole subject should be widely known and freely discussed so that a strong and wholesome public opinion may be formed upon it.

Before I pass, however, to the systematic consideration of my subject, I wish to correct one error which is probably more prevalent among the generation to which I myself belong than among the older members of the Congress. The proposal to establish county boards is by no means a thing of yesterday. It is, I think, one condition of sound political discussion to recognise what has been done by our predecessors, and to render honour where it is due. There was nothing very striking or romantic about the life and character of Mr. Joseph Hume, but it ought not to be forgotten that the cause of reform in county administration owes a great deal to his sagacity and perseverance. So long ago as 1836 Mr. Hume, assisted by Sir Eardley Wilmot, introduced a most comprehensive Bill, which on the narrative that the assessments in the hands of the justices of the peace were not subject to the control of those who contributed them, proposed the establishment of a county council with auditors to be elected by the ratepayers. This, which is the first, may also be said to be the most vigorous Bill upon the subject which Parliament has seen, because it not only accepted wholly the principle of representation of taxation, but it also provided for the division of counties into wards and the union of parishes into wards,

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and the uniform valuation of parishes. The council, consisting of from eighteen to forty-eight persons elected in varying proportions from the various county wards, was to act chiefly through an executive committee of five appointed every year. The auditors, three to five in number, also received their mandate directly from the ratepayers. Their audit was quarterly, and reported to the Central Government. The council was to appoint from three to nine valuators, and from their valuation both parish vestries and private persons had an appeal to the executive committee. With the help of Mr. Aglionby and Mr. Alston, Mr. Hume more than once introduced this Bill with slight modifications; and it was not until the year 1849 that, despairing probably of ultimate success, he brought forward a Bill for the establishment of financial county boards, to consist in equal proportions of justices of the peace and of members elected by the guardians of the poor. The cause afterwards passed into the hands of Mr. Milner Gibson. At one time the balance inclined in favour of property, at another in favour of the ratepaying class, but Mr. Hume's Bill of 1849 may be said to have remained as the model of most of its successors. The first Gladstone Administration would probably have gone farther if they had been able to press legislation on the subject. The Bills of Mr. Sclater Booth were withdrawn, and at the present moment, after more than forty years' discussion, the principle of representation has received no more recognition in county government than when Mr. Hume first lifted up his voice. It is no doubt a valuable feature of our political system that, as the Poet Laureate says, 'Freedom slowly broadens down from precedent to precedent.' But there are a good many important matters in which the movement might be slightly accelerated without any danger to the State.

I hope you will not think out of place this slight tribute to the memory of a man who felt little enthusiasm himself, and certainly excited none in others, but who nevertheless performed a very great amount of hard and useful work.

The first point I wish to bring under your consideration is the position of the parish in England and Scotland. What is a parish, who are the parochial authorities, and what is the business they transact? It is a striking instance of the manner in which modern arrangements depend upon the life of the past that the parish—the primitive area, as I may call it, of local government—is in the great majority of cases simply an ecclesiastical division of the land. There has been no attempt to form districts with a view to the convenience of

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civil administration. No doubt there are great advantages in an existing district, the name and boundaries and history of which are presumably known in the neighbourhood. But the most superficial glance at the statistics of parishes is enough to show that many of them must be quite unsuited for purposes of local government, and indeed this is to some extent admitted by the legislation which has been found necessary in both countries to remove the most glaring inconveniences. There are in England above 15,000 parishes, and of these a very large number have less than fifty inhabitants and are less than fifty acres in extent. Most of the parishes have between 300 and 1,000 inhabitants, and the average population is said to be 1,500. In Scotland there are less than 900 parishes in all, of which 280 have a smaller population than 1,000, and 160 have a larger population than 4,000. There is at least one parish with less than 150 inhabitants, and one which is only eleven acres in extent. I do not say that many of these parishes are not very suitable areas for local government, but they cannot all be, and my point at present is that they have been formed on a principle which pays little or no regard to the wants and necessities of civil administration. There is no approximation to equality either in population or superficial extent, or even to a proportionate equality on any combined ratio of these two things. I do not say that absolute equality is possible, or even desirable, but that the inequalities which exist are inconsistent with any sound principle of subdivision. A parish with 250,000 inhabitants is much too large, if any considerable number of parishes are of the proper size; and, on the same assumption, a parish with less than fifty inhabitants is much too small. In England the subject of parish boundaries has, from its connection with the tithe commutation movement, and for other reasons, received a larger share of attention than in Scotland. And yet in England at this moment there exists no power (except for limited purposes under the Education Act) for the consolidation of parishes which are admittedly too small for any useful separate existence, while the division of large parishes by provisional order under the Poor Law Amendment Act of 1867 requires the initiation of one-tenth part in value of the whole owners and ratepayers, and has been attempted only in two or three cases. In Scotland, on the other hand, there is power under what is known as Graham's Act to form new parishes in extensive and populous parishes. It generally requires the consent of a majority in value of the landowners in the parish. It also requires a proceeding in the Supreme Court, and so little is

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the convenience of civil administration thought of, that the Court is directed by Act of Parliament to see that the change will be 'for the better propagation of the Gospel and the spiritual edification of the people.' Under the Poor Law Amendment Act of 1845, the Board of Supervision may combine two or more adjoining parishes for the purposes of poor law business, but this power has been exercised only in two or three cases. Similarly, under the Education Act of 1872 the Education Department may annex small and thinly-populated parishes to the adjoining parishes, but this power also has been little exercised.

I have given a general description of the most striking features of English and Scotch parishes, without attempting any formal definition of a parish. The best practical, though not perfectly accurate, definition of the modern parish is 'the place in which a separate poor-rate is levied.' In about one-third of the 15,000 parishes in England this place is not the old church parish; for, especially in the Northern counties, a great many townships and villages, and other subdivisions, long ago acquired the right of being separately rated for the poor. In no case in England is the modern church parish, erected under the Church Building Acts, recognised for any civil purpose whatever. In Scotland the tendency has been the other way. In almost every case the poor-law parish is identical with the old church parish; but, on the other hand, for purposes of education the area selected is the *quoad sacra* parish, where it exists; that is to say, a modern subdivision of the old church parish carried out under Graham's Act, which I mentioned before, but purely for ecclesiastical purposes, and without civil effects of any kind, except, of course, in so far as it is adopted by the Education Act. Another very important practical modification of the parish must be noticed. It differs slightly in England and in Scotland. In Scotland the parish is one of the areas for the administration of education and sanitary matters. But in both these cases, though to different extents, the more considerable towns are also areas of administration. Hence, in Scotland there is a very large number of parishes which consist of the parochial territory lying outside the town. This is also the case in England as regards education; but there public health is not a parochial matter, though the considerable towns are also removed from the union which is the area of rural sanitary administration in England.

It is a little remarkable that, except where new parishes have recently been made by public authority, there is no authoritative or conclusive record of the boundaries of any

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parish. Of course, in the majority of cases these are for practical purposes pretty well known. The collection of assessments and the preparation of registration-lists from year to year, presuppose a fixed situation for all parcels of land. But if the question of boundary is raised, and it has often been raised, it may be found a very difficult and expensive matter to get it settled. Not only is there no public record, but the line of division has never at any time been fixed by public authority. The question simply is, Do certain lands lie in the parish? and this can be answered only by the history of the lands. As the inquiry proceeds backward, it may become quite uncertain in which parish the lands lie. I do not say this frequently occurs, but it has occurred, and in some cases assessments have been levied on the same lands by two sets of parochial authorities. The principle which permits this is wrong. It is probable—indeed, certain—that the areas of parishes require readjustment. In 1858 Col. Sir Henry James, the Director of the Ordnance Survey, in his evidence before a Royal Commission, described them as complicated and absurd. But before readjustment is possible the present boundaries must be definitely known. It has been suggested that the maps of the Ordnance Survey should be taken as conclusive evidence of parochial boundaries in all matters relating to valuation and poor-law administration. In most cases they would be found very accurate. But the Ordnance Survey did not proceed on any judicial inquiry. The surveyors under the Act of 1841 received considerable powers of calling upon local authorities to assist them in their work; and in the case of counties they have left some visible marks of the invisible lines on which they proceeded. But neither private proprietors nor the parishes or counties had any right to discuss or prove their boundaries before the surveyors. Their maps simply record the understanding which prevailed, or rather the arrangement acted on at the time when the survey was made. The best reason for adopting it as conclusive is, not that it can be regarded as perfectly accurate, but that for a number of years it has been so treated by nearly all the public officials who are interested in the matter.

I must next call your attention to the different organisation of the parish in England and Scotland. In England there are two kinds of parochial authority, or three if you include the modern School Board. In those parishes, containing more than 800 inhabitants, which have adopted Hobhouse's Act, the authority is the select vestry, a body consisting of 10*l.* householders, elected by ballot, of all ratepayers, to serve for

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three years. The election is annual, and the number of vestrymen may not exceed 120, the normal number being from twelve to fifteen. In all other parishes the authority is the common vestry, which is an assembly of the rated inhabitants of the parish, summoned by the churchwardens, and presided over by the rector. There is a plural vote, beginning at 50*l.* assessment valuation, and extending to six votes. The rector and churchwardens are also members of the select vestry. In each parish, and in each year, the justices appoint overseers, with whom the churchwardens ought to act in the collection of the parish rate; this service is compulsory. In the larger parishes a permanent vestry clerk, with a salary, is sometimes appointed. He is subject to removal by the Local Government Board. What, then, do these vestries and their officers do? Not very much, especially since the abolition of church rates. In England the parish has sunk into little more than a rating area. The collection of the poor rate and the preparation of the lists of voters are the two great items of business; and therefore the deliberations of the vestry are of the most restricted kind, although in theory it still remains a little parliament, in which all the grievances of the parish may be discussed. It must be remembered, however, that although the parish rate is called the poor rate, it is charged with and represents the expenses of many other local authorities besides the guardians of the poor. All these authorities, whatever may be the area of their own administration, employ the machinery of the parish for the collection of a rate. While, however, the English parish is primarily a rating area, there are several matters which are still to some extent administered there. In some parishes there is an organisation (including inspectors) under the Lighting and Watching Act 1833. In a much larger number, two-fifths of the whole country, the persons rateable for the repair of the highway elect a parish surveyor; and in the larger of these parishes the vestry elect a highway board. Lastly, the vestry or select vestry in many cases elect a burial board. But by far the most important matter of parochial administration in modern times is education. Under the Act of 1870, and subsequent Acts, there is now in the majority of parishes in England a School Board elected triennially by ballot of ratepayers. It is responsible for the business of education; but for the collection of the necessary funds it makes application to the older parish authority. The main point to be kept in view with regard to the English parish is that, although it has a poor rate which is levied for a great variety of purposes, it has nothing to do with poor-law administration;

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nor for the most part with sanitary administration, to the expense of which in rural districts it merely contributes its share.

In Scotland, also, we have three parochial authorities. In the first place, there is the School Board, the constitution and election of which are much the same as in England. As already explained, the area of jurisdiction of the parochial School Board is in both countries limited by the separate organisation of the municipal borough. As in England, too, the School Board are seldom under the necessity of making an assessment for themselves. They intimate what money is wanted to the parochial Board. This most important and singularly constituted authority is charged with the administration of the Poor Law, and in rural places with the business of public health, and burial, and registration. The parochial Board was introduced into Scotland by the Poor Law Amendment Act of 1845, and it has since received a considerable increase of its functions. It succeeded the heritors and kirk-session in the management of the poor, and it is now the great rating and administrative body of the parish. Its constitution varies in the eleven town parishes proper and in the rural parishes, many of which are really urban in character. In the first, there are representatives of the magistrates and kirk-session, but the majority of the Board are elected annually by the ratepayers. In the second, there is also a representation of the kirk-session and of the magistrates of any royal borough in the parish, and several members are elected by the ratepayers who are not members of the Board. But in most cases the great majority of the Board consists of the whole owners of lands and houses in the parish of the annual value of 20*l.*, or their mandatories. There is no ballot in the elections, and the vote is plural, starting at 20*l.* value and going up to six votes. The constitution of these parochial Boards is not defensible on principle. It may have been a prudent thing in 1845, when the existing kirk-sessions knew a good deal about the previous working of the Poor Law, to provide for their giving some assistance to their successors. But, now-a-days, although the kirk-session members are probably very good men, the thing is anomalous and absurd. So also with the special representation of the municipality. This arose from the circumstance that at one time these parishes contained a distinctly urban and a distinctly rural district; and, in fact, in many places the magistrates asserted a right to a separate administration of the poor. To a large extent that state of matters has ceased to exist, or, if it still exists,

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the present constitution of the Board merely serves to conceal the fact that the area of administration is an inconvenient one. But a much more serious blot upon the system established by the Act of 1845 is the indiscriminate admission to the rural parochial Board (although, I repeat, many of these parishes are really urban) of all proprietors above the small annual value of 20*l.* It may be the fact that few of these proprietors avail themselves of their privilege. Indeed, it must be so, otherwise the Poor Law administration of the country could not be carried on. It is right that permanent as well as temporary interests in property should be represented on the Board, although the great bulk of its finance consists of annual expenditure for current needs. It is by no means clear that a simple rate-paying franchise would not sufficiently protect proprietors even where they are much less numerous than occupiers. But in any view, and if any regard is to be paid to principle at all, some limit must be placed upon the number of proprietors admitted to the Board, because at present it swamps all other elements. The system is sufficiently condemned by the fact that in one parish, where the maximum of elected members is thirty, there are 2,000 proprietors entitled to take their seats and deliberate on Poor Law administration. It has been suggested that every parish in which there is a police burgh, *i.e.*, town or village, having adopted one of the general Police Acts should be considered as a town parish. This would make the Board wholly elective in all such parishes with the result, it is said, of a preponderating vote to occupiers. There seems to be no reason why the condemnation of a bad principle should be confined to any particular class of parishes. Such is the Scotch parochial Board. Except that it presides over a parish, it does not greatly resemble either the select or the common vestry. Except that it administers poor relief, it has little in common with the English board of guardians. Its functions show how much, as in other matters, the arrangements for local government have been effected by the *status quo.* It succeeds to the old jurisdiction of heritors and kirk-session in every parish without any exception in favour of towns. When the more modern matters of public health, registration, and burial have to be provided for, the existing parochial Board is selected as the authority in all rural places, but the increasing importance of towns converts them into independent authorities. As already mentioned, the parochial Board collects an assessment not only for its own purposes, but for the School Board. It makes an independent valuation for these assessments, or rather it

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converts the gross rental of the valuation roll into a nett rental.

The third authority in the Scotch parish is the one with very limited functions—the meeting of heritors or landowners. At one time they had the responsibility for education in the parish, and in a few parishes where parochial Boards have not yet appeared they still, along with the kirk-session, conduct Poor Law business. But in general they do nothing but assess themselves for a few ecclesiastical purposes, such as the repair of the church or manse. In England such assessments are no longer made since the abolition of church rates, and in Scotland the assessments are for the most part voluntary.

I have now compared the English and the Scotch parish. It is unnecessary to say anything about the municipal boroughs of the two countries, because in the broad view I am now compelled to take their position is very much the same. The purposes of municipal organisation are, of course, identical, and the great Municipal Reform Acts of 1833 proceeded in both countries on very similar lines. Since then, too, in England as well as Scotland the borough councils have become the local authorities for public health and other purposes. In both countries the management of roads may also be said to belong to the borough; in England as the Urban Sanitary Authority under the Public Health Act, 1875, and in Scotland as one of the local authorities under the Roads and Bridges Act, 1878. In England the council is responsible for education in those boroughs which have no School Board, a case which cannot arise in Scotland, where all municipal burghs are areas for education, but where the election of a School Board is in every case compulsory. It is, however, necessary to point out the close analogy which exists between the Scotch police burgh, that is, a populous place which has obtained a Local Police Act, or has adopted one or other of the General Police Acts of 1833, 1850, and 1862, and which therefore elects a Police Commission or Police Trustees, and the English Local Government District, which is constituted under the Public Health Act, 1875, and presided over by an elective Local Board, and also to the English Improvement Act District, which is constituted for similar purposes under Local Acts and presided over by commissioners or trustees. The analogy cannot be said to be complete, because the area of the police burgh does not extend far beyond the limits of the town, and the Scotch Police Acts include certain purposes which are more generally called municipal than sanitary. But the main objects of organisation

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become the same in this way. The modern Local Board is a creature of the English Public Health Act, 1875; while the Scotch Police Commission is the authority for executing the Scotch Public Health Act of 1867. The English Public Health Act provides for such matters as lighting, streets and roads, regulation of traffic, town improvements, and other strictly urban purposes which do not appear in the Scotch Public Health Act, but in the case of the police burghs these purposes are supplied by the General Police Acts. In England the Local Board, where there is no School Board, co-operates with the Board of Guardians or their School Attendance Committee in carrying out the Education Act, and many Local Boards are also Burial Boards.

I ought now to pass to a comparison of the English and the Scotch county, but before I do so it is necessary to glance briefly at an area and a local authority which are quite unknown in Scotland: I mean the Union and the Board of Guardians. The older English Unions, under what is known as Gilbert's Act, passed in the year 1782, were simply voluntary combinations of parishes for purposes of indoor relief, not unlike, though more closely united than, the forty poorhouse combinations which exist under the Scotch Poor Law Act of 1845. But the modern Unions were formed by a Royal Commission acting with compulsory power under the English Poor Law Amendment Act of 1834. They are completely consolidated, *i.e.*, not merely as regards the administration of relief, but also as regards Poor Law settlement and finance. They vary in size, from 60 to 150 square miles, and in population from 12,000 to 20,000; and they appear to have been formed on the principle of grouping parishes round a central market town. The Board of Guardians consists of all the justices of the peace for the county resident in the union, and of so many members elected by the owners and ratepayers in each parish. It has been recommended by a Select Committee that the English Board of Guardians and the Scotch Parochial Boards should be elected, not annually, but every three years. The business of the Board of Guardians is by no means confined to poor relief. They are the rural sanitary authorities under the Public Health Act, 1875. They do not, of course, enjoy all the powers over roads, &c., which are conferred upon, and are appropriate to, the urban sanitary authorities; but they supply water, provide sewerage and drainage, and are charged with the inspection and prevention of nuisances under other Acts. They enforce vaccination, and make arrangements for the registration of

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births, &c. In those rural places which have no School Board the guardians appoint a School Attendance Committee, and they also superintend the preparation of the valuation lists on which the overseers of the parish collect the poor rate. In Scotland this valuation is a county matter, subject to a system of deductions in the Poor Law parishes; and in England the county authority is not conclusively bound by the valuation which the guardians make. The Board of Guardians do not directly impose a rate upon the Union. When they have estimated their expenditure, they apply for the necessary amount to the overseers of the different parishes, who recover it under the name of poor rate. On the other hand the County Authority applies to the Board of Guardians for payment of the county rate, and the guardians recover what they advance from the various parishes in the proportion stated by the County Authority. For two practical reasons the Union is of great interest at the present moment. The constitution of the board is not unlike what has been sketched in many Parliamentary Bills for the new County Board. It consists of justices and elected members. Again, according to these Bills, the guardians are themselves to elect representatives on the County Board. Finally, it has for some time been a disputed question in Scotland whether the area of Poor Law administration might not with advantage be extended to the county or to a district, like the Union, larger than the parish.

There is in England one other area of administration, intermediate between the parish and the county, which, as it does not exist in Scotland, I ought to notice here. This is the Highway District, which on the application of five justices may be formed by the Quarter Sessions in virtue of powers given by the District Highways Act of 1862 and 1864 and more recent Acts. The highway board consists partly of the resident justices and partly of way wardens elected by the different parishes which are included in the district, and which contribute to the common fund. There are 400 such boards in England. The English turnpike trusts are in course of being abolished, with the result in the meantime of throwing very heavy burdens on particular parishes. It was the opinion of the Select Committee of 1875, confirming previous reports, that while the compulsory formation of highway districts was desirable, a still larger area of management was required. [*Infra*, Roads and Bridges.]

As regards the county the only leading purposes of local government which may be said to be common to England and Scotland are: (1) the supply of the county police, and (2) the

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support and superintendence of the asylums for pauper lunatics. By a statute of the year 1877, which many people regret, the real responsibility for the maintenance and management of prisons has been taken away from the counties and transferred to the central government. Certain visiting powers remain with committees of the previously existing local authorities, but it seems doubtful whether these will be efficiently exercised if the visitors have no power to set right what they think is wrong. The administration of county police is in England in the hands of Quarter Sessions, in Scotland in the hands of the Commissioners of Supply. These two bodies consist exclusively of proprietors having in possession or expectancy land of a certain minimum rental which is much the same in both countries. The justices are, however, selected from their class by Royal Commission, while all qualified persons are entitled to act as commissioners of supply. In both countries police administration is to some extent controlled by the Central Government, who contribute one half the expense of the pay and clothing of the men; and in both, counties are often divided into police districts, according to the watching requirements of the various localities. Money is raised by a special police assessment over the whole county. As regards pauper lunacy, the arrangements are different in the two kingdoms. In Scotland the local authority consists of a district board, composed partly of commissioners of supply, and partly of the representatives of Royal and Parliamentary burghs, but the expenses incurred are not levied from the whole county, but are apportioned between the burghs and the landward parts of counties, and are separately collected in these places. The thirty-three counties of Scotland have been grouped into twenty-two districts. In England, on the other hand, a good many boroughs, among those having separate quarter sessions, are independent lunacy areas; and in them and in the counties the local authority is a 'committee of visitors' appointed from their own number by the justices of the peace. Several quarter sessions boroughs have, however, been annexed to counties for this purpose, and in such cases they obtain a representation on the county committee, and contribute to the county expenditure, just as the Scotch burghs do.

The administration of roads and bridges has not yet been consolidated in England. As already pointed out, it goes on partly in parishes, partly in highway districts, and partly by means of turnpike trusts, which are now disappearing. The Justices of the Peace have important powers in connection with the formation of highway roads and the control of Highway Boards, but this most important and expensive part of

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local government cannot as yet be said to be identified with the county. The most recent movement is that under the Highways and Locomotives (Amendment) Act, 1878, which aims at the identification of highway districts with rural sanitary areas [i.e. unions] and the merging of highway management in the usual sanitary authority. The county authority, the justices in Quarter Sessions, pay one half the cost of main roads, i.e. those which have been disturnpiked within the last ten years. In Scotland it is different. The recommendations of the Public Roads Commissioners of 1859 have to a large extent been carried out by the Roads and Bridges Act of 1878, and in a few years road management will be consolidated in every county in Scotland. The new authority is the county road trustees. They consist of the commissioners of supply; one representative of every corporation assessed on a minimum rental of 800*l.*; two representatives of every police burgh whose population does not exceed 5,000; and from two to four representatives according to population elected by the ratepayers of each parish every three years. These trustees then elect a county road board, of not more than thirty members, not less than one-third nor more than one-half consisting of the trustees originally elected. The road assessment varies in incidence according to its purpose, occupiers taking a share of the burden of maintenance, while owners alone pay for construction and the payment of debt. The assessment is imposed on the whole county, and will probably in most cases be collected by the commissioners of supply. It will, of course, be understood that the large towns, the Royal and Parliamentary burghs and police burghs with a population above 5,000, are excluded from the area of the county, the management of their roads being entrusted to their own town councils or police commissioners. Burghs having a less population than 10,000 may, however, transfer their roads to the trustees, and themselves become part of the county for this purpose.

Time does not permit me to trace any further the great administrative differences between the Scotch and the English county. The Scotch commissioners of supply appear as the local authority under a great many modern statutes; for example, the Sale of Food and Drugs Acts of 1875 and 1879. They appoint a committee to carry through the business of county valuation. They are strongly represented on the somewhat oddly constituted local authority under the Contagious Diseases (Animals) Act 1878; and for the expenses incurred under these Acts, and in connection with the registra-

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tion of voters, the maintenance of court-houses, and the supply of weights and measures, they assess the county. The charter of their assessing power in modern times is the County General Assessment Act, 1868. The general assessment under that statute is mainly applied to general county expenditure, such as the salaries of county officers, and to certain expenses connected with the prosecution of crime.

In England, no doubt, the justices of the peace discharge many of the administrative duties belonging in Scotland to the commissioners of supply. Some of these have been mentioned. But the justices are not a corporation, and they have no organic assessing power. The general county rate includes a large number of miscellaneous items of expenditure; such as registration, valuation, shire hall, &c. It is unnecessary to refer to the immense mass of judicial and ministerial work which is performed by the justices in both kingdoms.

It was my intention to refer, in conclusion, to several important matters connected with the actual working of local government, in which very remarkable and most undesirable differences exist between the sister countries. Chief among these were: (1) the principles on which the valuation of land for taxation is conducted; (2) the rules for the incidence of taxation; (3) the amount of control over local authorities exercised by the Local Government Board in England, and by its only equivalent in Scotland, the Board of Supervision; and (4) the publication and audit of local accounts. But my time has been completely exhausted by the mere attempt to describe—I hope with no unnecessary detail—the several areas and authorities which at present exist, and the general nature of the business they transact. I will merely give an illustration of the importance of the fourth matter to which I have referred. A great political discussion was recently going on, and will shortly be renewed, with reference to the establishment of representative boards in counties. The claims of Scotland have not as yet received much consideration. I think only once have they been brought under the notice of Parliament, in a well-known debate which took place on the motion of Mr. Campbell in the year 1870. When a radical change in county administration is proposed, the first question which naturally occurs is this, what business do the counties transact, and what money do they spend? That question will meet with no satisfactory answer in Scotland, because, although the counties are bound to publish abstracts of their accounts in local papers, they are not bound to return their accounts to Government, and there is no central controlling authority to collect statistics.

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With one or two exceptions there is in Scotland no provision for returns of local taxation. The information which Parliament has at the present moment about the cost of county administration in Scotland (apart from police and roads) is contained in a return from twenty-one counties, obtained by Mr. Wallace in 1843–44, and in another defective return obtained by Mr. Campbell in 1870. These two returns suggest a very rapid increase in the gross amount of assessments, but they do not reach the present day, and they do not afford materials for any useful analysis. It is obvious that before any projects of reform can be properly considered, full and reliable statistics must be obtained by a competent and independent authority. This indeed is very much the position of the whole subject of local government. The facts have been carefully investigated by a few able and earnest members of the House of Commons, and the volume recently published by the Cobden Club must have done something to inform the public mind. But, in general, people are not sufficiently familiar with the length and breadth of the subject to have definite opinions upon it. It is a little remarkable, and not much to our credit, that the most systematic book published on the local institutions of England is that by Gneist, which is translated into French, but not into English; and the only published work which professes to compare the local administrations of England, Scotland, and Ireland, is a report by two Belgian civil servants, Fisco and Van der Straeten, which they made in the year 1859, for the purpose of assisting M. Frère Orban, then Chancellor of the Belgian Exchequer, in carrying out a scheme of very enlightened legislation for the removal of parochial custom duties in that country. I have not ventured in this Paper to touch any of the great questions in dispute, but I believe it to be important that the facts of the case should be generally known.

What should be the Course of Legislation with regard to Local Government? By Benjamin Fossett Lock, Barrister-at-Law.

THE present condition of local government has been described as a chaos of areas, powers, authorities, rates, and elective qualifications.

By way of illustration, I have prepared a map of a typical rural county, choosing Dorset, showing the boundaries of the county, the unions, the highway districts, the petty sessional divisions, the coroners' districts (as illustrating the division into

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hundreds and liberties), the electoral districts, the parishes, the boroughs, and local boards.

The particular problem proposed for discussion is this:—Is it possible to select a unit of area and to give the government of that unit such powers and such a constitution as will—

(1) attract men of the highest character and capacity to take part in it;

(2) clothe them with sufficient authority for *all matters* of Local Government: (*a*) theoretically, by Act of Parliament; (*b*) practically, by the support of public opinion; and

(3) provide sufficient guarantees for economy and checks against neglect or abuse of power?

Such an area must be important enough to ensure the treatment of the problems of government in a scientific spirit; and at the same time manageable enough to ensure the practical and businesslike supervision of details.

These problems and details can only be considered with reference to the particular powers to be exercised by the Local Government.

The present powers and subject-matter of Local Government (distributed among many diverse authorities) may roughly be classed as follows:—

1. Poor Law; including asylums and infirmaries.
2. Public Health; including the supply of water and light, and burials.
3. Highways; including navigable rivers, canals, and perhaps railways.
4. Elementary education.
5. Licensing of public-houses, &c.
6. Registration: (*a*) of births, deaths, and marriages; (*b*) of voters; (*c*) of juries; (*d*) of land (in some places.)
7. Valuation of property for rating.
8. Rating and collection of rates.
9. Police.

Each of these matters presents its own problem of government, which in some cases has been solved by experience; in others not yet.

These problems may be roughly stated thus:—

1. Poor Law.—*Problem:* To secure the minimum distributon of wealth; to relieve inevitable distress, and avoid pauperising or imposture. *Solution:* The restriction of outdoor relief, with careful supervision, assisted by well-organised co-operation of charitable societies; and encouragement of indoor relief, by throwing over a wider area the cost of workhouses, asylums, infirmaries, &c.

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This solution has succeeded, I believe, wherever it has been tried; and it has been tried in the most difficult, *i.e.* the Metropolitan, district. And poor relief seems to be badly administered in proportion as the system adopted departs from that stated, becoming, perhaps, worst of all in Scotch parishes, where there is no poorhouse combination.

2. PUBLIC HEALTH.—*Problem:* To secure immunity from preventable disease and discomfort; to adapt theoretical schemes to (*a*) the physical geography, and (*b*) the financial capacity of the district. *Solution:* Not yet found. A Paper has been read in another Department, 'What is the best area for sanitary purposes?' and this is still *sub judice.* The questions involved vary infinitely, from Thames Valley drainage to the lighting of an isolated country village. Hence it should either be a maximum area capable of subdivision, or a minimum area capable of aggregation. The latter is preferable; as there is no way of fixing the former; and it is necessary to give every scope to experience and experiment.

3. HIGHWAYS.—*Problem:* To secure facility of locomotion, to provide proper accommodation, and to apportion the cost of making and repairing roads among persons really benefited. *Solution:* This has been, to throw the cost of main highways of intercourse on a larger area than the cross local highways.

This was formerly done by means of turnpike trusts; and now, under the recent Act, by throwing the cost of maintaining the main roads upon the county. But the present areas and subdivisions, and the actual working, are certainly not accepted in England as satisfactory; though the principle seems to be a sound one. The dissatisfaction largely arises from the needless expense entailed by the triple authority of the county, the highway board, and the parish.

4. EDUCATION.—*Problem:* To prevent inefficiency, disorder, and crime, so far as these result from ignorance, without pauperising, or using rates for improper purposes. *Solution:* There is no more vexed question; but this much is now generally accepted for the present—that elementary education, under compulsory powers, is to be provided for every part of the county by the local authority, whether school board or town council, or school attendance committee.

5. LICENSING.—*Problem:* To prevent inefficiency, disorder, and crime, so far as they result from drunkenness, without interfering with the provision of proper accommodation for travellers. *Solution:* has not yet been discovered; drunkenness abounds, with inefficiency, disorder, and crime.

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But the House of Commons has formally resolved that a further experiment should be made, by giving the inhabitants of a district, probably through the local authority, a voice in the decision; which is important for the present purpose.

6. REGISTRATION.—*Problem:* To provide for purposes of civil government, whether local or central, a complete register of facts and events necessary for those purposes—births, deaths, marriages, voters, juries, land, &c. *Solution:* Registration by a small district making returns to a larger and supervising district, or direct to the Central Government.

7. VALUATION.—*Problem:* To provide uniform assessment of all real property for purposes of all rates and taxes, whether local or imperial. *Solution:* Valuation by local authority, subject to supervision by courts of central authority.

This solution is not satisfactory, nor accepted, so far as concerns the valuation of large companies owning works of greater extent than is covered by the jurisdiction of any local authority, *e.g.* railways, canals, water companies, etc.

8. RATING AND COLLECTION.—*Problem:* To provide for uniform apportionment of rating to individuals and uniform collection of all rates and taxes upon real property. *Solution:* Not found; involves simplification and unification of areas, authorities, and powers.

9. POLICE.—*Problem:* Preservation of order and detection of crime. *Solution:* A wide area and centralised direction; with security against 'fear, favour, or affection,' by moving individuals from place to place. A small police force, *e.g.* of a small borough, is almost uniformly bad.

Bearing in mind all these problems, and the solutions, so far as they have gone, the immediate practical question is, to select a unit of government capable of exercising all these functions, or the major part of them, to determine its area and constitution.

It may be well to glance first at some recent attempts at legislation.

Mr. Goschen's Bill of 1872 was, in the main, *financial* only. It provided for a consolidated rate, for universal audit, and paid collectors, all of which are valuable in abolishing a multitude of accounts and furnishing statistics.

In organisation it provided only a parochial board, with nothing definite to do, except that the chairman was to be civil head of the parish and vote in the election of the county financial board. It left, without attempting a remedy, the confusion of powers, authorities, and areas; and added another authority. The parish was taken as the unit, though admittedly a bad one,

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on the ground that it is easier to alter the boundaries of parishes than of unions; a ground which seems to be not only insufficient, but very doubtfully correct. I may illustrate this with an instance from the map. The parish of Milton Abbas has two outlying portions at considerable distances from the bulk of the parish. The Local Government Board recently intimated to the justices their intention of annexing these outlying portions to other parishes for the sake of convenience. An adjourned quarter sessions was held to consider the matter, which declared that the change would upset the basis of valuation for the county rate in three different parishes and three different unions; and that the inconvenience would be greater than the convenience.[1] And there are in Dorset alone over thirty parishes with detached portions, and over fifty detached portions.

Mr. Sclater-Booth's Bills for the formation of a county board hardly touch the main question; for they were only concerned with elective members of the quarter sessions, without any development of that or any other local organisation.

It remains only to enter a protest against a recommendation of the Sanitary Commission, that, because sanitary matters are likely to be the most pressing matters of local government in the immediate future, the area best adapted for sanitary purposes should be selected for all. Nothing could be more shortsighted. Sanitary matters are most pressing, partly because least understood; all the nostrums of the present generation of 'sanitationists' may be upset by the next, and we shall have to rearrange everything. Our machinery must be elastic in order to adapt itself to things now unsettled; but to base it entirely upon the unknown is hardly scientific.

It will be observed that for some of the stated objects of local government a larger and a smaller area seem to be absolutely necessary; *e.g.*, Poor Law, highways, licensing, registration; and the two are, in the way of inspection or supervision, practically in use in almost all; and are probably necessary in all, in order to provide, as was set out at first, 'proper guarantees for economy and checks against the neglect or abuse of power.'

It is wise, if possible, to sever no historical association that is vital: tradition is the soul of good government. Let us consider, then, existing areas of local government; counties, hundreds (and liberties), boroughs, petty sessional divisions, unions, highway districts, parishes.

Of these the county will be readily admitted to be too

[1] Since the reading of this Paper the Local Government Board have intimated their intention to make the change notwithstanding.

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large an area for an efficient administration of outdoor relief; for most matters of public health (*e.g.*, supply of water and light, nuisances, burials); for education (in its details); for registration; for the rating of individuals, and the collection of rates. On the other hand, it is excellently adapted for the management of asylums, infirmaries, workhouses, for main highways and bridges, and for police, and for some purposes of public health—*e.g.*, the arterial drainage of a river valley within the county.

The county, or some large division of it, may, naturally enough, be selected for the wider area of local government; and, except in the case of the great historical divisions (such as the ridings of Yorkshire), there would seem to be no object in taking any division; the historical associations would be lost, and nothing would be gained.

The smaller area has next to be considered. Take first the parish. It is often assumed that this must remain the fundamental unit—*e.g.*, by Mr. Goschen,[1] Hon. G. C. Brodrick,[2] &c., &c. But within the last twenty years the parish has been definitely ruled by different Acts of Parliament to be too small, irregular, and inefficient for the administration of poor relief (either outdoor or indoor), of public health, of highways, of registration, of valuation, and of police; and even in education it is largely superseded by school boards, school attendance committees of the unions, and town councils. The actual making of rates and collection of rates from individuals is its almost only remaining function in rural districts.

Nor is the historical association very attractive. The importance of the parish, *quâ* parish, dates from the Poor Law of Elizabeth in 1601, and still more from the Settlement Law of Charles II. in 1660; and even now to be 'on the parish' is a term of opprobrium equalled only by being 'in the union.' It is further entangled in the question of ecclesiastical organisation, which introduces further difficulty.

The *union* is the body now actually in possession of the largest powers of local government outside the boroughs. But it is in no sense a subdivision of the county. Out of 647 unions it will be necessary to alter the boundaries of 250[3] to make them correspond with the boundaries of counties. It is often inconvenient and straggling in shape and arrangement.

It is, moreover, too large, or needlessly large, for almost all the purposes for which a county is too large—*e.g.*, outdoor relief (in very few unions well administered), ordinary pur-

[1] Speech in 1872. [2] Cobden Club Essays. [3] Mr. Wright says 181.

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poses of public health (for which it has already largely failed), education, registration, rating of individuals, and collection of rates. This is shown by the fact that there are few unions in which there is not more than one relieving officer, school attendance officer, district drainage committee, registrar of births, deaths, &c.; or else where the work is not inefficiently done. Its size varies from 60 to 150 square miles, its population from 12,000 to 20,000.

It is not large enough for the functions allotted to the county; nor, owing to its straggling conformation, is it particularly well suited for the management of the smaller highways.

The historical sentiment connected with it is not strong; to be 'in the union' is worse than being on the parish. Though established in 1835, no common life grew up around it, until it became after 1866 the assessment authority, the sanitary authority, the education authority. Even so it is difficult to rid it of its old reputation. The same or a stronger common life would rapidly centre round any other more convenient district upon which the same or wider powers were conferred.

The operation of the Public Health Acts and Education Acts has broken up the unity of the union, which does not act within certain sanitary districts, nor within school board districts.

The petty sessional division and the highway district (where it exists) sometimes correspond, except that the former only excludes boroughs with separate commissions of the peace; the latter excludes any urban sanitary authority.[1] Only 8,000 out of 14,000 rural parishes in England and Wales, are, however, included in highway districts. But to either of these considered as a final unit there are all the objections urged to the union on the score of size, except that they are both conterminous with counties; and more, for they are often larger, and they are much more irregular in size. Altogether there are 820 petty sessional divisions in England and Wales, to 647 unions. Neither the petty sessional division nor the highway district has any historical sentiment or association to recommend it, nor any arguments from convenience.

We want, in fact, an area larger than the parish, smaller than the union, to discharge all functions for which the county is too large; it must be concentrated, containing, as far as possible, common interests and capable men, with sufficient population to form a strong public opinion.

There are only two existing subdivisions remaining for consideration: the oldest—that of hundreds and liberties; the newest—that of electoral divisions.

[1] In Dorset, with trifling exceptions, they correspond.

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It would be pleasant to revive the ancestral jurisdiction of the hundred, but in its present condition it would be hopeless; for the hundreds and liberties are often split up into fragments scattered all over the county. It would only be possible with a complete rearrangement of boundaries and reorganisation, such as was practised with the county courts.

Even if this were done such a rearrangement must inevitably produce a district of much the same size and position as the electoral divisions under the Ballot Act, which are also divisions for the holding of Registration Courts, and were to have been specially planned since 1872 for the purpose of convenience of access and facility of locomotion, all being grouped round a town or large village.

Putting aside for the moment sentiment and association, we may consider this area from a practical business point of view, and test its working in this typical rural county: for it is for rural districts that organisation is needed.

The Act required that there should as far as practicable be *a polling-place within four miles of the residence of each elector.* The size of the area may therefore be taken roughly and on an average as a circle with a radius of four miles, or fifty square miles. They are, in fact, in Dorset rather smaller, with an average of thirty to forty square miles, arranged so as to be a collection of parishes grouped round a town or large village. The arrangement was made by the justices themselves, and therefore may be presumed to be well studied from the point of view of convenience.

There are, in fact, many small anomalies in the actual distribution, which could easily be corrected. Some arose from obvious causes, *e.g.* the existence of grouped boroughs taking in a large portion of the surrounding county.

It will be found that these divisions are generally about half the size of a union. In Dorset there are about twelve and a half unions (the boundaries of six cross the border) and twenty-six polling districts. One of these should be omitted —the Isle of Portland, which forms in itself a complete urban sanitary authority.

Whichever rough test be taken—(*a*) circle with four miles radius, or (*b*) half an existing union—we may now consider it for each purpose for which the smaller authority is required.

1. Poor Law.—(*a*) It is, *à priori*, a district over which one man may conveniently travel for purposes of relief, inquiry, &c. (*b*) It is, *in fact*, about the size of one relieving officer's district at present. (*c*) It is a convenient area for a co-operating charitable organisation. (*d*) It is a wide enough

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area to equalise gross inequalities resulting from dwellings of poor being in one parish rather than another, to get the benefit of union chargeability, &c., &c.

2. PUBLIC HEALTH.—(*a*) It is a manageable area for inspection of nuisances: it should now be about the size of one inspector's district; (*b*) it is as large an area as is possible for the minimum area of water-supply, and owing to its size and arrangement it seldom stretches into two river valleys; (*c*) it is so compact that for water-supply and drainage one part must largely depend on another; (*d*) in view of recent legislation, it would be a good area for management of burying-grounds: the parochial system will probably cease.

3. HIGHWAYS.—(*a*) For all highways, bridges, &c., not main, it would be a much fairer district than the union, probably than the present highway district, being specially arranged for concentration upon a particular spot; and (*b*) it will lead to an extension of the number of *main* roads, for any thoroughfare between the centres of two districts should be a main road.

4. EDUCATION.—As for Poor Law and health, so for school attendance, (*a*) it would be a manageable area for one officer, and (*b*) more easily supervised by the governing body than the union; (*c*) it would need no special orders for parishes to unite for school boards or school management: hence would result economy of money and power.

5. LICENSING.—(*a*) The area would be as convenient as the present, the petty sessional division: (*b*) the wants of the district are more likely to be homogeneous; (*c*) there would be less chance of injustice, if the number of houses were very limited in one district.

6. REGISTRATION.—(*a*) *Births and Deaths:* it is about the size of the district of one registrar; (*b*) *Marriages:* (1) it would enable a registrar to attend and register religious marriages; (2) it would provide a civil officer to preside at civil marriages; (*c*) *Voters:* it would provide a better and more responsible body than the overseer to make the lists, with a great saving of inefficient work; (*d*) *Juries:* the list might be the same as that of voters, exemptions being stated; (*e*) *Land:* if a smaller area than the county is necessary, this would be convenient; but probably the registration of titles to land would be undertaken, as in Scotland, by the county.

(7) VALUATION.—This area would be as useful as the union subject to the same checks; or the duty of valuation throughout the county might be taken by the county authority. If handed over to the proposed area, the process of change, always

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considered great (as in the Milton Abbas case quoted above) is really no more than a series of addition and subtraction sums. The existing valuation would, of course, be adopted.

(8) Rating and Collection.—In the proposed area all rates (including precepts) might be collected by one collector, or at any rate from one collector's office, which would be that of the authority itself. It would lend itself to all the advantages of Mr. Goschen's Bill—consolidated rate, paid collector, universal audit—without the drawback of the inefficient and unmeaning parochial board.

In all these respects this area appears to be not too large for all functions for which a parish is suitable—(it is, indeed, not larger than some parishes)—nor too small for all those for which a union is suitable—(it is, indeed, hardly smaller than some unions),—and it is well suited for those for which the parish is too small but the union too large.

Further, it has an advantage which no union, highway district, petty sessional division, or county, can have, viz., concentration, a valuable aid in giving effect to public opinion. It may, I think, be laid down as an axiom that, without prejudice to the amount and extent of the authority given to the governing body, the area should be so arranged that they should act entirely within the view and cognisance of the inhabitants whom they govern. Any part of the district in which a difficulty or a grievance may arise ought not to be so far distant from any other part but that any intelligent inhabitant may visit it on foot without inconvenience, and form his own opinion upon it. Some of the areas will, of course, be thinly populated, but population can be balanced by the number of the governing body (as is always now the case); size cannot be so balanced, and there are many purposes for which size is a serious consideration. On the other hand it is better to have a district of moderate size in active organisation than to have a very small unit (as is the case with hundreds of parishes) nominally alive but really dead.

If we were beginning with a blank map some such area would probably be selected. Can it yet be adopted, when we have to do with the growth of 2,000 years?

It is necessary to consider some of the objections that will be raised.

Objection 1.—It is a brand-new district, only eight years old, with no common life or common interests, except so far as they are derived from party politics, from which it would be best to keep local administration entirely free.

Answer.—Entirely sympathising with the spirit of the

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objection, I answer: (1) The spirit of the past is wrapped too closely about us to allow of any district being brand-new. This district is (*a*) an aggregation of *parishes* and (*b*) grouped round a town or large village which in almost every case will prove to have been the central *township* of some *hundred*, which is still an existing though vanishing organism. (2) Common interests spring from co-operation in a common life. The union is a body less than fifty years old; as a body considered worthy of any respect, it is less than fourteen years old, yet already people begin to cry out that it is too strongly planted to be superseded. (3) Party politics inspire vigour and keenness into public life, even if they warp its judgment. Whatever area is selected, party politics will more or less enter; the less the better, but it is not worth while to destroy local life rather than run the risk of an attack of fever.

Objection 2.—A more practical objection will be: 'The scheme diminishes the size and must increase rather than diminish the number of local authorities, and so will increase expense and machinery.'

Answer 1.—If the number of parochial authorities be taken into account, the number of authorities is very largely diminished; it is hardly increased, if they are left out of account. For instance, in Dorset there are twelve boards of guardians, nine highway boards, and twelve town councils or local boards—total, thirty-three authorities, besides more than 300 parochial authorities, and several school boards, burial boards, &c. In future twenty-five new districts, and ten urban sanitary authorities—total, thirty-five authorities, without any parochial authorities, school boards, burial boards, &c.

Answer 2.—Nor is there any reason to anticipate an increase of expense; *e.g.*, taking the same instance—if the salaries of the clerks and officers of the thirty-three existing authorities be added together, and increased by the sum of those of paid parochial authorities (such as assistant overseers) and of school and burial boards, and also by a percentage of the salaries of magistrates' clerks and officers for the proportion of licensing and other administrative duties, transferred to the new authority, there should be no difficulty in providing for the clerks and officers of the thirty-five proposed new authorities.

But I have no sufficient data for an accurate estimate, either for England generally, or for this or any particular locality; if, indeed, they are to be obtained. In many ways there should be economy. In many districts one official might be

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relieving officer, school attendance officer, registrar of births and deaths, collector of rates, and perhaps inspector of nuisances and surveyor of highways. No very technical knowledge is required for any of these offices.

Answer 3.—For the sake of simplification and unification of powers, and the *strengthening* of local government obtained and the increased powers given, some increase of expense, if necessary, would be more than warranted. In order to attain this end completely, the urban authority or the rural authority must be paramount and self-sufficient within its own district in all matters of local government whatever, which are not taken by the higher authority. For this purpose urban authorities would have, in addition to their present powers and duties, Poor Law (out-relief), education, registration, valuation, and rating and collection for *all* rates. They should all be encouraged to become municipal corporations.

The county authority would then take, as already stated, Poor Law (for asylums, infirmaries, and workhouses), highways (main roads, bridges, &c., to be considerably extended); police, entirely; inland navigation, and public health (larger schemes of drainage and supply).

The urban or rural authority would take Poor Law (decision, and cost of supervision and of out-door relief); public health (all ordinary matters); highways (all except main roads, &c.); education, licensing, registration of all sorts, valuation, rating and collection of rates.

Such being the powers and area proposed, its *constitution* must next be considered.

But first, to avoid circumlocution, let us, if possible without pedantry, give names to the urban and rural districts which shall be concise, and indicate their historical associations. There need be no difficulty with the urban districts: if all are brought under the Municipal Corporations Act they will be *boroughs*. For rural districts *hundred* might do; but the meaning of this name is gone, and there might be confusion with the actual *hundred*, the liabilities of which still exist. But the Norman successor to the Saxon *hundred* was a *barony*, and this is a name common to England, Scotland, and Ireland, and in the latter country still of living importance.

For the purpose of this paper, then, urban districts with the proposed powers are *boroughs*; rural districts are *baronies*. They are mutually exclusive, and the county is the aggregate of the two. The *borough* has a constitution which it is not necessary, though it may perhaps be useful, to modify. But the *barony*, so far, has none, and there is a wide choice of

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methods of election:—(1) The vestry, in which all ratepayers attend for the purpose of electing officers to whom all the duties are delegated. (2) The town council, in which household suffrage over the whole town elects the governing body, who apportion the duties among committees. (3) The town council, in which 'wards' are the electoral area. (4) School-boards, same as (2), with cumulative voting. (5) School-boards, same as (3), with cumulative voting. (6) Unions and highway boards—*i.e.*, ratepaying franchise, plural vote, election of members by parishes, with *ex officio* members, justices within the district, the former supposed to represent occupiers, the latter owners of land; the difference being that, when a parish has more than one representative, in the election of guardians the method of election is what the French call *scrutin de liste*, in the election of waywardens it is *scrutin d'arrondissement*. (7) Quarter sessions or petty sessions, which all justices may attend. (8) Scotch commissioners of supply, which include all owners up to a certain value, eldest sons of owners of higher value, and the factors (agents) of owners (if absent) of a still higher value. (9) The new Scotch road trustees, and possibly many others.

It is not profitable here to discuss the merits and demerits of all these modes of election; but a few cardinal principles should be borne in mind. We are probably not ripe for what I may call the really scientific and practical method of selection, viz., to ascertain the competent man, to put him in office, to leave him there while his powers are vigorous, and then to let him choose the fittest man he knows as his successor. This is what is done in any large business; what will probably be ultimately done in administrative government, which is mainly business. To some extent it is now done. It largely accounts for the successful management of the administrative functions of quarter sessions, where the power is practically in committees whose chairman at any rate is indirectly so nominated. So far as it is practised it is, and for some time must be, submitted to an elective test. There is not without this a sufficiently developed respect for public opinion or belief in the morality of government to check the temptation to corruption or favouritism.

Moreover, the one thing needful in most provinces of local government is to give, not theoretical power, on paper, but active practical power through the support of public opinion. It is hardly too much to say that this is not practicable in England at the present time, except with an elective authority, elected on a wide suffrage.

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Two other principles should be borne in mind:—

1. The differentiation of spiritual and temporal functions. For the sake both of government and of religion, ministers of religion should not be encouraged nor, I think, allowed to undertake public functions of government. On the one hand the suspicion of personal ambition, or of compulsory power, is fatal to spiritual influence; on the other hand, there is nothing so detrimental to business as sectarian feeling. No doubt, at present, some very excellent magistrates are clergymen; but I think I am not going too far in saying that these are as a rule better as magistrates than they are as clergymen; and may be allowed their choice of occupation; and vested interests might, of course, be respected.

2. The differentiation of administrative and judicial functions. No magistrate should be *virtute officii* an administrator, no administrator a magistrate. It is as absurd that a justice of the peace should be, by virtue of his office, a manager of highways and bridges; as that a mayor of a borough should be, by virtue of his office, a judge.

In France magistrates are excluded from the *conseil général* and the *conseil communal.*

In the present state of things it would be absurd to exclude justices from the governing bodies of 'baronies'; on the contrary, they would supply the larger and most valuable portion of the material. But they should sit either as elected members or, like the Commissioners of Supply, by virtue of their ownership of land of a certain value, or payment of rates to a certain amount.

It would be idle here to discuss the matter further. Personally I am in favour of a body entirely elected by household suffrage of a district divided into wards, without ballot, and with the cumulative vote, with a tentative election in the first place by show of hands at a public meeting, as in the case of a vestry. The wards should, wherever feasible, correspond to the parishes; but probably some would have to be grouped, others subdivided. The 'baronies' at present existing in Dorset contain, some no more than four parishes, others as many as twenty-three—another proof of the inutility of the parish as a unit of area.

It must not be forgotten that the 'barony' as proposed is a wide enough area to ensure the existence of men of high character and business capacity as residents, whether landowners, farmers, merchants, or tradesmen, all within easy reach of the central town or village, at which the business might be carried on morning, afternoon or evening, without consideration of

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trains or distances. Naturally the capable landowners with leisure would be expected to take the lead; and, if willing and able, would certainly be returned in a very large proportion, even if the body were purely elective.

The number of representatives on each barony would vary with population, &c.; but, considering the variety of powers, and the consequent number of committees, it must be considerable in number.

To go a step lower, the single or senior representative of any parish, tithing, or ward of a barony should be the 'overseer' or civil head of the parish, tithing, or ward; and it should be his duty to summon and hold periodical meetings of the parish, tithing, or ward, not only for the annual election, but at other stated intervals, and at any time, upon requisition. This would keep alive the public opinion and practical interest of the inhabitants generally in their local government, which has tended to die out since the supersession of vestry meetings.

The council of the barony would choose its own mayor or baron, or whatever he might be called. Re-election to any office should be permissible and encouraged: a good man in office is not lightly to be got rid of.

Having thus a constituted authority for the baronies and boroughs, how is the county authority to be formed? This must be an exceptionally strong and capable body, yet so formed as not to attract good men away from an active interest in the government of their own barony or borough.

This may be secured by a system of indirect election. Let it be constituted by a certain number of members returned by every barony and borough in the county, according to population. The choice of representatives should not be confined to members of the electing council, or to residents in the barony or borough, provided that they were habitually resident in the county. It would often be highly desirable to secure for the benefit of the county the services of some active member of Parliament, or other person, who could not afford the time for habitual attendance at the council of the barony. There might be many other reasons; only let him be selected by some one of the smaller authorities.

Such a system of election should ensure three things:—(1) That the representative is a capable man; (2) that the county will not lose the services of men who would be deterred from seeking office under the conditions of turmoil and canvassing, and, too often, of corruption, which may attend a democratic election; (3) that the energies of leading men would

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be attracted to the barony, not repelled from it, as a step to a position upon the county authority.

If an average of three members were chosen by each barony and borough this would give, in Dorset, a county authority of 115 members, about two-thirds of the present number of justices of the peace; but with this difference, that they would all be picked men. They would probably include the best half of the present justices, with about half that number of the best farmers, merchants, and tradesmen. They would be supported by all the prestige of an elected authority, and would choose their own chairman, who should be in all respects the civil head of the county, called, perhaps, the Sheriff or Earl.

It may be objected, is this exceptionally strong body of men to be got together merely to manage workhouses, asylums, infirmaries, main roads, bridges, and police? No; these are not unimportant functions, but there are others as important.

We have yet to provide checks against the neglect or abuse of power by the smaller authorities, and nevertheless to release local government as much as possible from excessive dictation and encroachment on the part of the Central Government. Had there been such county authorities as those above indicated, it would probably have been impossible for the Government to take over the prisons, or to have given dictatorial power to the Committee of Council on Education.

The county authority should be, in the main, the natural regulating, supervising, inspecting, and corrective body over the baronies and boroughs. If two or more districts wish to combine for the purpose of some special sanitary or other object, let it be done with the sanction, not of the Local Government Board, but of the county. If a district is insufficiently supplied with schools, let the authority to require amendment be the county. It would always be acting subject to Acts of Parliament, or rules having the force of law, and capable of being enforced by the courts.

The functions of the Central Government would then be in the main confined to the supervision of the county authorities in their own work, or where they might be using compulsion upon smaller authorities. For example: a county is insufficiently supplied with hospitals. Let the Local Government Board require the accommodation. Or a more complicated instance: a number of districts propose to join for the purpose of some large drainage scheme, and apply for sanction to the county authority, who think the scheme will be better if more districts join. They say, 'Either you must all join or

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we will undertake it.' The others refuse. The county, with the sanction of the Local Government Board, may either (1) make them join or (2) undertake the work.

The county might also with advantage be a board of arbitration or appeal upon matters of policy or fact, in which legal rights were not affected, in disputes between (*a*) two or more baronies or boroughs, (*b*) individuals and baronies or boroughs. So the Local Government Board in disputes between (*a*) two or more counties, (*b*) individuals and baronies or boroughs and counties.

Almost the whole of the inspection and supervision of the smaller districts might be taken off the Central Government, and the sentiment and authority of the country largely decentralised.

In some few respects it might be well that the Central Government should retain direct control over baronies and boroughs, *e.g.*:—in borrowing money upon the security of rates; for here future generations are affected, and what is called the local indebtedness of the country may be a material element for consideration. This is now becoming a matter of enormous and increasing importance. It is worthy of consideration whether some further restrictions should not be placed upon it. In France the *conseil général* can only borrow on condition of paying off principal and interest in fifteen years.

Audit is another matter in which the Central Government might retain direct control over baronies and boroughs; for it is absolutely essential, for the purpose of statistics, &c., that the accounts and returns of authorities should be similar. It might, however, be enough if the Central Government were to prescribe the forms, and audit the minor accounts indirectly only as branches of the county, all the accounts of baronies and boroughs appearing in the county balance-sheet.

This re-arrangement of powers would render desirable the amalgamation of the Local Government Board, and much of the Home Office, and the Privy Council, as an education and sanitary authority, with a probable considerable reduction inthe staff.

I would anticipate one constitutional objection to the general scheme—*i.e.*, that it is contrary to the current of English history in any way to subordinate the borough to the county. But small boroughs have gradually been subordinated to either county or union in matters of poor law, licensing, registration, valuation, and police. In rather extending this principle I propose to give them the compensating advantage of being represented upon the county authority; and any borough which is a county of itself might be exempted, unless

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it preferred to subordinate itself for the purpose of relief from some liabilities.

Again, it should be obligatory on all boroughs with over a certain limit of population (say 100,000) to become for administrative purposes counties of themselves; to undertake all liabilities, and to be subject only to the supervision of the Local Government Board.

Further, it should be optional for all boroughs with a smaller limit (say 50,000, or even 30,000) to take a similar position, with the sanction of the Local Government Board; and obligatory on any such borough, on the direction of the Local Government Board, at the request of the county authority. Otherwise the interests of the rural and small urban districts would be liable to be swamped.

Counties, baronies, and boroughs so organised and constituted might be entrusted by Parliament with additional powers beyond those at present existing. Subject to the same sanction and to the general Acts of Parliament, they might construct, or authorise the construction, not only of roads but of railways and canals; and even counties might be permitted to combine for the purpose of these undertakings, or of large schemes of water-supply, drainage, inland navigation, or other public works.

It would be difficult to foresee the limits to which this self-adjusting machinery might not be applied. It must develope liberty, local *esprit de corps*, individual capacity and responsibility, public opinion, and self-government.

Summary.—It may be as well to give a succinct summary of the proposed scheme, which stands thus:—

The 'county' to be divided into 'baronies,' corresponding to the present electoral divisions, or thereabouts; to be exclusive of urban sanitary authorities, which are to be 'boroughs.'

The 'barony' to be divided into 'wards,' corresponding to the parishes, or groups or divisions of parishes, to be called parishes or tithings.

Each parish to elect in open vestry (subject to a poll) its members of the council of the barony; the single or senior member of the parish to be overseer or civil head of the parish, with the right and obligation to call parish meetings.

The council of each barony to choose its own 'baron,' to be civil head of the barony; also representatives, according to population, on the county board. The council of each borough also to elect representatives on the county board.

The County Board, or Sessions, is to consist of representatives of baronies and boroughs; to choose its own chairman,

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who will be civil head of the county, and (?) called 'Sheriff.'

Amalgamate into the Local Government Board most administrative work of the Home Office, and of the Privy Council on education and sanitary matters.

The parish, or tithing, is to have no functions, except the election of members and discussion in public meetings.

The barony or borough would undertake:—

1. Poor Law; cost of outdoor relief and general administration.
2. Public health—ordinary matters.
3 Highways—except main roads, and bridges.
4. Education—elementary.
5. Licensing.
6. Registration.
7. Valuation.
8. Rating, and collection of rates.

Any two or more baronies or boroughs may combine for particular objects, with sanction of county board.

In all matters the baronies and boroughs are to be subject to the supervision of the county board.

The county board, or sessions, would undertake:—

1. Police, exclusively.
2. Poor Law (workhouses, infirmaries, asylums).
3. Public health (where not within power of one barony, or borough, or two or more in combination).
4. Highways—main roads, bridges, canals, navigable rivers, even railways, and large public works generally.
5. Other objects, with the sanction of the Local Government Board, for which two or more baronies or boroughs seek to combine.
6. Supervision and inspection of all baronies and boroughs.

Any two or more counties may combine for particular objects, with sanction of the Local Government Board.

In original matters the county board would be subject to supervision and inspection by the Local Government Board.

Boroughs of over 100,000 population to be counties of themselves.

Boroughs of over (say) 50,000 population to be counties of themselves, at their own option or at the instance of the county board, with the sanction of the Local Government Board.

The Local Government Board to inspect and supervise county boards, and in a few matters, perhaps, councils of baronies and boroughs—*e.g.*, loans, audit, &c.

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In this paper I have assumed as little change as may be in the distribution of the functions of the different authorities, leaning always in the direction of *self*-government, by giving as much as possible to the smaller authority. Upon this point it is open to anyone to differ from me, without raising any fatal objection to the scheme itself. For instance, it might be thought advisable to give to the county authority all the jurisdiction in the matter of highways, or valuation, or licensing. If so, this can be done. The proposed grouping of particular powers may not be satisfactory; but two authorities would exist; two seem to be necessary; two are in my opinion sufficient; and the two being constituted in an effective manner, any particular function may at any time be in whole or in part transferred from one to the other.

I have considered the question wholly apart from—

1. Local taxation, except as to economy in collection.
2. The judicial organisation, which remains unaffected.

The proposed system lends itself—

1. To a reform of local taxation much better than the old.
2. To judicial reforms, if needed, no less than the old.

I have not treated of the question in its bearings upon Scotland and Ireland; I leave that to others. But I can see no reason why the same principle should not be applicable to them. A wise application of it might go some way, at least, to satisfy the demand for Home Rule, which appears to be growing steadily stronger in both of these countries.

DISCUSSION.

Mr. Botley (London) considered the two Papers were of very great importance. He happened to know the county of Dorset referred to, as also some other counties, and he quite agreed with the writer of the last Paper, which would commend itself to the consideration of the country at large. The opinions of the writer as to County Boards they must all concur in, and also with regard to their jurisdiction. In the former Paper there was the following observation:—'It was the opinion of the Select Committee of 1875, confirming previous reports, that while the compulsory clauses as to highway districts were desirable, a somewhat larger area comprised in them may yet be required.' That had been of immense advantage to the country generally, and the roads in various parishes had much improved since the enlargement of the area. An old relative of his, in 1812, told him that he remembered the first Act of Parliament in reference to turnpikes, and he was a holder of trust bonds then; and the old gentleman was wont to say that he would not wonder if some one living should see those Acts

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repealed. They were now almost abolished, and he could bear testimony to the great improvement in the rural districts through the enlargement of the area. Ten parishes or more are now under one surveyor, whereas formerly they used to come in conflict with each other, the roads suffering thereby.

Mr. R. A. MACFIE (Dreghorn) said there was a general disposition in favour of extending the basis for county representation. There was a danger which deserved to be provided against—that of discouraging the attendance at county meetings of persons who, to use the current phrase, belong to the upper classes. Such persons have in time past taken the lead. They still deserve to do so, or fancy that they deserve, in consequence of their wider opportunities of knowing what are county interests, and their individually greater liability to pay taxes, and to suffer from bad administration. Already, partly from this *amour propre*, or expectation to carry weight, being indifferently consulted, there is visible a tendency on their part to abstain from taking part in meetings at which their counsels, and even their presence, are useful and desirable. One way of securing a continuance of the participation of such persons in the management of public business and the control of expenditure (economy in which they are generally distinguished for) is *graduated suffrage*. It is extremely important to bring classes together on such occasions; estrangement at any time between them ought to be deplored. In Scotland the mischief is eating like a canker into the national vitals beneath the surface, but manifestations are not uncommon already.

Mr. J. H. RAPER (Manchester) was struck with the general structure of Mr. Lock's elaborate Paper, and thought the Section was very much indebted to him for it. It was one of the greatest benefits of the Social Science organisation that subjects coming before Parliament for consideration should be thoroughly ventilated in this way by gentlemen so competent as Mr. Lock had proved himself to be. He wished to call Mr. Lock's attention to the point of the area, and ask whether the gain would be a sufficient one for the country. Mr. Lock tried to meet this by simply stating, as far as Dorset was concerned, that thirty-three authorities would be reduced to twenty-five new districts; but the public sentiment seemed to be in favour of the number of areas being much more largely diminished. He therefore wished to ask what would be the relative numbers composing the existing authorities and the new ones? He did not notice in the Paper any reference to the plurality system of voting, and he could only gather that one vote for each would be allowed in future. In Canada, and Ontario more particularly, there was not a single yard of land but what was under municipal government, and they formed a county board for highway purposes and for other general county matters by a representative body elected by the smaller bodies. The radius of eight miles did not seem to be large enough for the public conception, and he wished to know what the general gain would be to the country? And, secondly, whether there would be one vote, and whether everyone occupying a seat at the Board would be elected by the people.

The CHAIRMAN (Mr. Treasurer Harrison, Edinburgh) said that

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what they had heard was very valuable. They had learned that to a large extent the present state of things as regards local government over a large part of the country is one of chaos. The interests affected are very extensive and important; there is a large amount of work to be done and large funds to be received and expended. Now, who are to do all this? No doubt they could constitute boards and give a right of voting, but the great mass of the middle and upper classes, the classes who pay the taxes, confine themselves to criticising those who do the work. They shirk the responsibility of work, and throw all the labour upon others. They talk of jobbery, of the incompetency of the members of the respective boards, and of the bad way in which all the work is done. Is it possible, then, that the work can be done well unless the people most deeply interested take their share in the doing of it? A good many years ago the late Prince Consort said that constitutional government was on its trial, and this statement was much criticised at the time; but the course of events had strengthened his belief in its correctness. Year after year, while the work to be done became more important, and while the funds to be expended grew greater and greater, the mass of the middle and upper classes took less and less interest in the doing of the work. He should like very well to know from Mr. Smith and Mr. Lock whether, after all the anomalies spoken of had been rectified, they had given their attention to any means by which the people would get honest work out of that portion of the community whose interest it was that municipal and local government should be well administered; and whether there was any probability in the time to come that that class would take their share in the work more fairly than they had done in time past? He had had considerable experience, and his suggestion would be that so far as possible the number of the members of public boards should be reduced. One advantage of that would be that the labour of these boards would be very much diminished. When boards were large, and town councils consisted of forty or fifty members, an enormous amount of time was wasted in irrelevant talk; and the very fact that it was known that so much time was wasted in this manner prevented citizens whose own business was important, and who had logical habits of thought, from becoming members of such boards. Another advantage of reduction would be to increase responsibility. If a committee appointed to do any work was large in number, the work was not merely badly done but nobody was responsible for it, and it became impossible when money was wasted to know to whom to ascribe the blame. The doing of the work that had to be done did not occupy much of the time. The Town Council of Edinburgh now saved about two-thirds of the time formerly occupied by the meetings by printing its minutes, and circulating copies among the members. Some years since, five, six, and even seven hours used to be wasted over what was now done in one hour; and people, forgetting that this was a thing of the past, kept back from entering the Town Council because they believed this enormous waste of time was still going on. It would be well then to awaken public spirit on the part of the leisured classes, and if this were done it would do a great deal in the way of making local government better,

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and would be an education which the middle and upper classes very much required.

Mr. NOEL, M.P., after expressing agreement with the Chairman, said he supposed that if the scheme of Mr. Lock were carried out, it would be by popular election, and that, therefore, it might be right to point out that the reason why the upper and middle classes did not take a greater share in the work of representative boards was, that under the present system the mode of election was such that men would not undertake the labour and hardship of canvassing. It was by canvassing, and canvassing only, that persons were elected to these boards, and there must, therefore, be a great change in electoral matters so far as the mode of election was concerned, otherwise, by popular voting, they would have the best men shut out from carrying on the county work. In Quarter Sessions in England they had a body of men who gave an amazing amount of time and attention to county affairs, and he ventured to say, although he was quite favourable to having elected boards, that in these Sessions in England the economy and the care that were at present taken in county matters in many respects could hardly be improved upon. He believed that unless great care was taken in the election of the County Boards under any new system, they would not have half the economy, and half the care, that they at present had; while, on the other hand, they would have a great deal of irrelevant talk—for men would be elected because of their talk and their canvassing, and would go to the Board to display their own powers, and not to carry on business.

Mr. BOWKER (New York) said it was exceedingly interesting to an American to hear discussed in this country the same difficulties which they had experienced in the United States in the working of representative institutions, especially the difficulty of getting the middle and upper classes to take their fair share of the work of government. The mistake they made seemed to be that of attaching to the method of government what was really a moral difficulty. In America they had endeavoured to meet the difficulty by concentrating the responsibility in small boards, and in single officers, but even that was not effectual, because they did not get the best men even on the small boards. Perhaps the mistake was in supposing the thing could be remedied by any alteration of the method by means of legislation; what they had to do was rather by means of social parliaments, like the Social Science Congress, to endeavour to promote a strong public opinion that would call upon the upper and middle classes to take their share in the work of government. Their system was one of universal suffrage, and the thing they had to emphasise in America, and possibly in this country as well, was that the vote was not the only means of political influence, and the man who counted for most was he who could influence most votes. There was in America a school following the English School of Political Economists, who adhered strongly to the doctrine of *laissez-faire*. He would suggest, however, that they should look a little deeper to cure some of these evils, and he believed it was for such a purpose that this useful Congress met.

Mr. HASTINGS, M.P., expressed his pleasure at hearing the

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remarks of the last speaker. They must always remember when they criticised the working of American political institutions, whether general or local, that Americans laboured under one disadvantage, viz., the constant immigration into their country of new constituents, who became naturalised, and had a voice at once in the government of the country. But, even after making allowance for that, there was a great deal to be amended in the working of American local institutions. The people of that country had, in some cases, in absolute despair of working representative institutions in local government, been driven to create a mere bureaucratic board, without any election at all, to carry on the work. In New York he found a small board nominated by the State Legislature for the purpose of carrying out the entire sanitary administration of the city of New York. They had not come to that in this country, and he hoped they never would; but, most unquestionably, they would be driven to it if there were an entire absence from the local boards of those who could best carry on local government, and perform its functions, and unless those who had the power of voting in their hands were brought to exercise the franchise in an uncorrupted way, by choosing those who were the best men, but who would not stoop to the moral degradation of saying what was untrue in order to be elected. What was really at the bottom of the inefficiency of their local government was the system of corruption that had been introduced, under which voters were paid for their votes. This custom had, as was shown by the evidence before the Election Commissioners, frequently originated in connection with municipal elections, in which candidates who desired to serve in town councils paid for the votes given, thus accustoming the voters to look for payment for their votes at Parliamentary elections also. While agreeing with Mr. Noel as to the efficiency of quarter sessions, he would be ready to give hearty support to a measure to substitute representative government in counties for the present system. The magistrates might fairly place their work by the side of any elective town council, but the real weakness of the quarter sessions was their being a nominated instead of being a representative body, and consequently failing to carry with them that public opinion and support which were absolutely necessary if new and important functions of administration were to be given to them. There was one way only of making efficient county governing boards, viz., by making them consist wholly of representatives of the people. None of the compromises proposed by the late Ministry, of giving one-half the seats, or one-third of the seats, to nominated members ought to be entertained for a moment. There was no fear that an elective system would lower the character of county government. The people would know whom to trust.

Mr. Wm. C. Smith, in reply, said that almost all the criticism had been confined to the Paper of his learned brother, which dealt with interesting practical questions while he described existing facts and institutions. He agreed with Mr. Lock that this question had not the same importance in Scotland as in England. Legislation had gone on in England by piecemeal, and special areas and authorities had been created for special purposes; but that was not the case to the

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same extent in Scotland. He thought there was much value in Mr. Lock's suggestion that the electoral district created under the Ballot Act should be tried as a new general unit area for local government; and this would doubtless be equally applicable to Scotland as to England, although the highlands of Scotland presented geographical difficulties to every scheme of legislation. The Chairman's remarks had gone to the very root of the matter, and the great object of all such discussions was to get opinions from good men engaged in the public service. As a ratepayer of the city of Edinburgh he looked upon the Chairman's financial administration with the most lively gratitude. As a lawyer he had no right to adopt the mantle of the prophet, and call upon the middle and upper classes to do their duty in this matter; but he believed that many of the changes advocated that day would, if carried out, have a tendency to enlist a much higher class of men in the work of local administration. It was the opinion of many that a three-years' tenure of office would tempt a better class of men to come forward. It was also suggested that the number of those entitled to take part in the deliberations of local authorities should be in many cases diminished, so that the feeling of responsibility would become greater. The mere suppression of unnecessary authorities and the consolidation of the work to be done would have the same effect of giving increased importance and dignity to local office; while the systematic publication and audit of local government accounts would remove even the suspicion of corruption to which the Chairman had alluded, and to which it was to be feared many public bodies were still more or less justly exposed. It was really impossible to do justice there to so original and comprehensive a set of suggestions as was contained in Mr. Lock's Paper, and he thanked him for the time and labour he had expended upon it.

Mr. Fossett Lock, in replying, said Mr. Bowker had pointed to the real answer that should be made to the objection that rich men would shirk the position and the work of local government,—if they were to be subjected to the incidents of an election, or put on a level with other people in voting power. It was, in fact, a question of morals, which could only be enforced by moral sanction. Rich men, if they did not know the duties attaching to wealth, must be taught them, and that foremost among them was the duty of discharging the functions of administrative government. He differed from his learned friend, Mr. Smith, when he suggested that questions of morals were outside his range either as a lawyer or as a member of the Social Science Association. On the contrary, he considered moral science to be the highest branch of social science, and believed if any man would treat questions of policy apart from considerations of morals, he was almost sure to go wrong. Men could not, however, be made moral in this or any other respect by Act of Parliament. They could, in framing Acts, put a sort of indirect pressure upon them in the right direction, by throwing hindrances in the way of a lower tone of morality, and taking care to throw none in the way of a higher tone. He would call Mr. Noel's attention to the fact that he had not committed himself in his Paper to any particular form of election; on the contrary he had set out some eight or nine methods actually in use, and had declined to consider

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much which was the best, as it was comparatively immaterial. But in what he had said about the work of quarter sessions, Mr. Noel would see he entirely agreed with what he had put forward as to the superiority of their work over that of most municipal councils. After what had fallen from the Chairman, he hoped they might be more ripe than he thought when he wrote that sentence for a system of individual responsibility with a long tenure of office, such as was to so large an extent the case with the different chairmen of committees of the quarter sessions. It might probably be a distinct advantage if many committees consisted of one person only, subject to the obligation of complete publicity in everything done by him. He did not think in the scheme he had propounded there was any hindrance to the development of this as fast as public opinion would allow. There was also in the scheme a certain amount of indirect pressure upon men of position to take an active part in the local government, in the fact that no man could take a part in the county government except through election by the smaller council, to which he must consequently recommend himself by his activity and interest in the district. It was difficult to see how more could be done in that way. Certainly anything which would tend to deter the best men from an active part would be much to be regretted. Mr. Raper had asked what would be the proportion of the total number of new authorities under the proposed scheme to the total number existing at present. That was a question he could not answer, as he had not the necessary statistics; but he believed he would not be far wrong in saying that under the scheme there would not be more than, and probably not so many as, the existing number of authorities, exclusive of the parishes, some 15,000 in number, and the existing School Boards. He had been trying to make a rough calculation since the question was asked. It did not pretend to accuracy, but he did not think it would be far wrong. It was very encouraging to hear Mr. Hastings speak so strongly in favour of a purely representative system, as it showed that fears of wholesale abstention were perhaps exaggerated. There was only one other point upon which he wished to touch, and that was the Chairman's complaint that people who did not seek office in local government had no right to criticise the conduct of those who accepted it, or to complain of their jobbery or corruption. He differed from the Chairman, however. Every government was the better for criticism, and if a man was not industrious enough, or not willing to undertake the duties of public life, the next best thing he could do was to criticise it. He was then discharging almost as valuable a function as the active citizen. Therefore they ought not to check or discourage such a man in what he was willing to undertake, as if he were necessarily doing wrong because he was not doing better. Rather should they encourage him to do this than to take no interest at all in the matter.

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DEFINITION OF THE WORD 'INCOME.'

For purposes of Taxation, what is the most scientific and practicable definition of the word 'Income'? By DAVID CHADWICK.

THE consideration of this question is almost as interesting as the analogous question submitted to the House of Commons by Sir Robert Peel, 'What is a pound?'

Webster defines 'income' to be 'that gain which proceeds from labour, business, or property of any kind; the produce of a farm; the rent of houses; the proceeds of professional business; the profits of commerce or of occupation; the interest of money or stock in the Funds.'

'It is often used synonymously with *revenue*, but *income* is more generally applied to the gain of private persons, and *revenue* to that of a sovereign or of a State. We speak of the annual *income* of a gentleman, and the annual *revenue* of the State.'

Other lexicographers agree generally in this definition.

The mode in which the word 'income' is used by Adam Smith, by John Stuart Mill, and other political economists may be taken to agree with the definition given above.

But the question submitted to our consideration limits the inquiries to *purposes of taxation*, and these purposes include all imperial and local rates and taxes.

The assessment of the income and property tax is based entirely upon the definition placed on the word *income*. And the decisions of judges and special commissioners are almost as puzzling and various as the interpretation of the Scotch system of '*means and substance*.'

The poor rate, county rate, and all local taxes are levied on the actual or estimated annual value; and the recent Acts for appointing local and county assessment committees are gradually introducing equitable deductions from the gross or total rental value to arrive at the assessable value or taxable income; and in the case of canals, railways, and large manufactories this assessable value 'is the amount which could be paid annually by an ordinary tenant for occupying or working the same for the purposes of income or profit.'

All taxation is, therefore, based on estimated or actual 'income.'

I propose to limit our inquiry to a consideration of the best definition of income as applicable to the assessment of the income and property tax.

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This tax is levied under various schedules, which for our purposes may be taken as follows:—

Schedule A.—Land, Rents, Mines, Railways, Gas Works, Water Works, &c. B.—Farm Rents, &c. C.—Interest and Dividends, &c. D.—Professions and Trades. E.—Offices and Employments.

When *Pitt* proposed his income tax in 1798 (which was repealed in 1816) he described it as a 'general tax upon the income of every individual throughout the kingdom'; and he specifies in his classification of incomes '*annual rental* of land, tithes, houses, &c.'; *annual income* from trades, professions, mines, canals, &c., and from annuities, public Funds, and possessions beyond the seas.

The income of farmers in England was fixed at three-fourths of the rental, and in Scotland at one-half the rental.

When *Sir Robert Peel* introduced his *income and property tax in* 1842, as a temporary tax for three years, he followed the general principles of *Pitt's* tax of 1806; but in regard to husbandry, he fixed the taxable income on farmers *in England* at *one-half the rental* (instead of three-fourths, as fixed by Pitt), and in Scotland at *one-third* (instead of one-half). This exception by both Pitt and Peel may be taken as a proof of the difficulty they each felt in defining what is 'taxable income' in regard to the profits of farming.

In 1851 a committee of the House of Commons, with Mr. Joseph Hume, M.P., as chairman, was appointed 'to inquire into the present mode of assessing the income and property tax, and whether any other mode of levying the same, so as to render the tax more equitable, could be adopted.'

This committee sat during two sessions, and heard evidence, but made no report or recommendations; but the valuable opinions given by many eminent men were printed.

In 1861 another committee of the House of Commons was appointed, with Mr. Hubbard, M.P., as chairman, for the same purpose as Mr. Hume's committee.

They examined many experienced witnesses, and I had the opportunity, along with others, of contributing my testimony, to show the inequalities of the incidence of the tax.

The committee decided against the report prepared by Mr. Hubbard, and adopted a report to the effect 'that they are not prepared to offer any suggestions for its amendment.'

In 1871 I moved for the appointment of a select committee 'to inquire into the mode of assessing the income tax.'

This motion was lost by a majority of only nine, after Mr.

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Gladstone, the Chancellor of the Exchequer, had promised to consider and investigate the various suggestions made.

In 1878, 1879, and 1880 Mr. Hubbard, M.P., introduced his Bill to amend the administration of the inhabited house duty and 'income tax'; but the Bill, though a practicable and valuable measure, never passed the stage of a 'second reading.'

In endeavouring to answer the question submitted to us I venture to describe *income*, for all purposes of taxation, as '*the clear annual amount, after deducting all necessary outgoings, received from any property or investment of capital, or from any trade, profession, or occupation, or from any annuity or other source, leaving at the end of each year the capital or source intact.*'

To decide what is taxable income we must, therefore, ascertain what are the annual necessary outgoings in relation to the various sources from which it arises.

The principle of deducting *outgoings* is admitted in the assessment to the poor's rate and all local taxes. And these outgoings include a reasonable deduction for repairs, insurance, &c., to arrive at the clear income or assessable value.

But in the case of the income tax no deduction for insurance and some other outgoings required to keep the capital intact is allowed, and the tax is levied on the total rental of property, the total profits on trade, and the total income from professions, pensions, and annuities.

All national taxes should be levied on the property and incomes of the various classes comprising the nation, with due regard to the benefits which they enjoy from the expenditure of such taxes.

Every person enjoys individually the protection of the law and the benefit of the Government Departments of the State in any position or occupation in which he may be engaged.

And those who possess property of any kind enjoy, in addition, the further protection of the State for all such property.

A committee of the British Association was appointed, on the suggestion of Mr. Hallett, in 1875 (of which I was a member), to report on the practicability of adopting a 'common measure of value' in the assessment of 'direct taxation.'

They presented two valuable reports, showing that a 'common measure of value' applicable to all incomes may be scientifically and practically applied.

The purport of these reports may be stated briefly as follows:

'That *income* is the interest value free from outgoings, leaving the source unimpaired.'

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The taxable income from land, rents, and property of all kinds would, therefore, be the *interest rent*, after deducting outgoings.

Mr. Hallett's report shows that in assessing the income tax on trades the present law allows you to deduct the cost of replacing worn-out machinery, *horses*, &c., but in the case of trades and professions *no allowance is made for replacing worn-out men.*

I venture to contend that the income of a physician, artist, or engineer is equivalent to a terminable annuity, in which a portion of the principal is consumed every year; and that it should be assessed accordingly on the *annual interest value* only, keeping the capital or source intact.

The British Association Committee gave the following examples of *taxable income*:—

A barrister, earning 1,000*l.*, should be allowed for outgoings and depreciation of source 40 per cent., or 400*l.*; and the assessment value should be 600*l.*

A merchant, manufacturer, or shopkeeper, having a capital of 10,000*l.* in his business, and earning 1,000*l.* a year, should be assessed—for interest on capital, 500*l.*; for profit, earnings, 500*l.* (less 40 per cent., 200*l.*)=300*l.*; assessable value, 800*l.*

I need not discuss the question whether in the above cases the annual 'wear and tear' (which is allowed by law on horses) should in the case of men be 40 per cent. of their annual earnings, or any less sum; it is clear that *some fair* and *proper* allowance should be made in such cases; and, without taking into account exact ages, I contend that it is perfectly practicable to lay down a scale which would be substantially equitable, and in accordance with what the British Association Committee recommend, viz., *a common measure of value.*

The late Joseph Hume, M.P., Dr. Farr, and others thirty years ago recommended the principle of *capitalising* the value of all *incomes* for purposes of taxation, as the correct measure of the protection rendered by the State; and twenty years ago I ventured to suggest a method of carrying out such a system of assessment.

But against the principle of assessment on capitalised value it may fairly be contended that all incomes from property, even under short leases, should be *assessed* at their annual value, after deducting all actual outgoings, the same as freehold property or long leases; because the property or the source of the income requires and receives the protection of the State under all circumstances alike; the mere change in the recipient of an income from property makes no difference in

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the protection such property requires; whilst the source of a professional income ceases altogether at the death of the possessor.

Amongst the anomalies and inequalities of the income tax, it has not been generally noticed that the present system of assessment actually *omits to assess many real incomes.* Great land and property owners, without any risk or outlay, frequently find their estates enhanced in value, but they are *not* charged with income tax on such *increased* value, even when realised, in consequence of the want of a scientific and practicable definition of *income.*

I suggest the following new charges for consideration:—

1. A landowner has 100 acres of sea-beach land, held for 999 years, and worth when valued for legacy or succession duty 20*l.* per acre, and producing a rental of 10*s.* per acre.

By the extension of docks and the building of a railway through his property, by other people, at the end of twenty years it has increased in value to 500*l.* an acre, and he sells it for 50,000*l.*, and thereby gains a clear profit of 48,000*l.*

When *this* or any *less* or *greater* increase in value occurs, and is realised, should not the landowner be charged with income tax on the profit or increased value?

If a land agent, as a matter of business, made such a profit he would be required to return it for assessment to the income tax.

If any property owner or tradesman purchased out of his savings a similar estate he would probably have paid income tax on the whole 48,000*l.*

2. Property-owners do not pay income tax on the value of the increased rentals at the expiration of leases of their property.

On the recent expiration of a number of leases in London and Westminster, it was said that the owner *could* have renewed his expiring leases on the same rental, and received in cash, as premium on such renewals, upwards of 500,000*l.*

Should income tax be paid on any portion of this amount?

3. The same thing occurs on the renewal of leases by corporations, who pay no probate duty, no succession duty, no legacy duty, and no income-tax on the periodical increase in the capitalised value of their properties. Why not?

4. Gas and water works proprietors do not pay income tax on the increased value of their property when sold to a corporation under the compulsory powers of an Act of Parliament.

Is not this taxable *income* when realized?

5. The capital invested in the eight London Water Works Companies was valued by a referee at *upwards of thirteen*

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millions sterling beyond the former market price. The expectation that Government and Parliament would pay this increased price caused the sale value of these shares to be nearly doubled.

Other independent experts valued the compulsory purchase at about three millions, or *ten millions less* than the Government valuer.

But, whether the increased value was three millions or thirteen millions sterling, should not this sum be assessable to the *income* tax whenever realised?

No better proof can be given that it would have been clear *gain* than the fact that, owing to the inquiries of a Parliamentary committee, nearly the whole of the 'increased value' of thirteen millions has *vanished*; the Stock Exchange prices being nearly the same now as they were before the Report of the Government referee had so greatly inflated their value.

By the Government purchase of the telegraphs a few years ago, several millions sterling were paid for them in excess of their previous value; but income tax was not paid on this large profit.

Many other instances could be given of actual realised profit income being at present omitted from assessment.

Can such accretions of value be fairly assessed to *income* tax? I think they can, as and when realised.

When the legal offices of the 'Six Clerks' in Chancery, and more recently the offices of the 'Proctors,' were abolished, they claimed and obtained compensation on 'incomes' much larger than they had returned for assessment in previous years to the Income Tax Commissioners.

Would not a proper definition of 'income' have prevented these legal gentlemen from committing so great a mistake?

The knowledge of the *inequality* of the assessment to income tax, and the 'sense of injustice' in regard to its incidence, are the only plausible reasons which have ever been assigned in palliation of the moral obliquity so palpable in the present inadequate returns under Schedule D.

It has been asserted that in London there are more persons earning incomes from 2,000*l.* to 20,000*l.* a year than are *returned* for the whole of England, Ireland, and Scotland.

Would not the adoption of a scientific and practicable definition of 'income' assist in removing this acknowledged stigma?

The application of my definition of income for purposes of national taxation would give the following practicable results:—

1. Taxable income from *land, chief and ground rent,*

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interest on investments in Government Funds, mortgages, perpetual annuities, &c., should be the full amount thereof, as there is no waste or wear and tear in earning the income, whilst the capital remains at the end of each year intact.

2. *Rents* from *house property* should have such a deduction, to arrive at the taxable income, as will pay for insurance and recoup the depreciation or repairs each year, and keep the source and amount of income *intact*. Five per cent. to 10 per cent. per annum would be a fair average deduction.

3. The taxable incomes of occupying tenants of farms are *now* assessed in lieu of profits on a proportion of the actual rental differing in England from the proportion charged in Scotland or in Ireland; this scale should be made uniform, and one-half the rental might be taken as a fair average assessment, in lieu of the actual returns of profit income in each case.

4. Taxable income from pensions and life annuities should be assessed on the amount which represents the *interest* on the sum invested or represented, and *not* on any part of the *principal*, as at present.

5. Taxable income from trades should be taken to mean 4 per cent. interest on the capital invested therein, and one-half the clear net profits beyond such interest; all outgoings and replacements being charged as working expenses, so as to leave the capital invested at the beginning of the year intact at the end of the year. The remaining half of the profits should be taken to represent the annual exhaustion of life-energy required in earning such surplus annual profits.

6. Taxable income from coal mines should be taken to mean the actual net profits, after deducting all outgoings as above, and the further deduction of the value of the coal got, used, or consumed, as capital to be replaced.

When an owner or lessee of a coal or other mine is required to pay on all the profits of the working, he is really paying income tax on the sale of a part of his property.

A thousand or a million tons of coal can be measured whilst remaining in the earth, with as much exactness as a like quantity on the surface of the earth.

If the coal was on the surface it would be acknowledged as *stock*, and the value of the lessened quantity at the end of the year as compared with the beginning of the year would be deducted from the amount of the sales before arriving at the profits chargeable to income tax.

The simple definition of *income* which I have recommended would remove the present unjust system of assessing mining property.

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Its application in this and other cases would be comparatively easy, and the whole income, leaving the capital intact, would be assessable.

It may be argued that a large mine owner, who does not choose to work his minerals, receives all the protection of the State without contributing anything in the shape of imperial taxes.

This is, no doubt, the fact, and points to a defect in our local and imperial taxation as compared with America and other countries where land, mines, and other property—whether used, cultivated, and worked or not, and whether producing any income or not—are charged with both local and national taxation, on the ground that such property receives the protection of the State and must contribute to the requisite expenditure.

The Income Tax Commissioners always firmly refused to make any allowance for replacement of capital consumed in coal mines until the case of appeal—in which I was concerned—of *Andrew Knowles and Sons, Limited*, in 1877, to the High Court of Justice, Exchequer Division, when the three Barons of the Exchequer unanimously allowed the deduction of 10,424*l.* from the profits as the capital value of the exhaustion of coal got and removed, and by which the estate of the company had been *lessened* in value during the year to that extent.

Although this decision is now the law the Income Tax Commissioners have refused to allow its application to other cases; and in an appeal now pending in the Lords the Scotch High Court refused to allow the Coltness Company to deduct actual disbursements in sinking additional pits when the old pits were exhausted.

7. *Taxable income* from ships and railway rolling stock is the net income after due allowance has been made for replacing the capital value which is so largely depreciated every year. These are the principal cases in which the Income Tax Commissioners generally allow deductions for lessened capital out of the gross profits. *We desire to apply the principle of these allowances to all other classes of income.*

8. The *taxable income* from *salaries* and *professional earnings* should be taken to mean the actual income, less a due allowance for the exhaustion of the life-energy, which is the *real capital consumed* in earning the actual receipts.

The scientific method of arriving at the taxable income of a physician or an engineer would be to consider his total annual income as a terminable annuity, to be valued according to his age and the life-energy remaining.

But this individual adjustment might be considered trouble-

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some, although it is perfectly practicable; and I would therefore recommend the adoption of a general estimate, as in the case of farms, and agree that incomes earned apart from the use of capital should in all cases be assessed at *one-half the annual net amount.*

I venture to express my firm belief that if the application of the principle of a *common measure of value*, and the limitation of the income tax to *incomes*, ascertained and settled substantially according to the methods I have described (even should the greater portion or the whole of the new charges I have suggested be omitted), were adopted, the net receipts to the Exchequer, especially in Schedule D, would be *very largely increased.*

I venture to believe that the very endeavour to assess the tax on some such basis of acknowledged equality would remove that deep and general sense of injustice which now finds expression in the moral fraud of inadequate and minimum returns.

The public conscience would be relieved, and our finance ministers would no longer be required to make the humiliating confession that the income tax is absolutely necessary to raise the public revenue, but is incapable of being equitably adjusted.

The income tax has been generally looked upon as a temporary tax, and all previous attempts to equitably adjust its incidence have been resisted on the ground that it will some day be entirely removed.

This vain hope has prevented for thirty years the requisite adjustment of its incidence.

If a united and national effort be now made we may hope to see the tax equitably assessed on a 'common measure of value,' and a scientific and practicable definition of what is *taxable income.*

DISCUSSION.

Professor PIERSON (Amsterdam) said that the question now before them had been dealt with for the last 130 years. It was first raised by the Phynocratic School, whose conclusion was that the term 'net income' should only be applied to that portion of the national revenue received by the owners of the soil in payment of rent. Agriculture, it contended, is the only truly 'productive' labour, because it is the only one affording a 'net income.' A manufacturer indeed gets an income, but, as a rule, it is just sufficient for his maintenance; a merchant, likewise, may earn handsome profits, but they will be gained at the expense of other people. A farmer, on the contrary, after having covered all his

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expenses, will have realised something beyond this—a surplus, which will go to the landowner in the shape of rent. Agriculture is the only branch of labour affording such a surplus. For this reason it is the only one deserving to be called productive. We all know that this doctrine has been refuted by Adam Smith, and that Ricardo, by giving the true explanation of rent, has shown it to be based on a fallacy. Yet to a certain extent Ricardo has contributed to its survival by defining 'net revenue' to be that portion of the national income available, not for *all* sorts of expenditure, but merely for expenditure *on luxuries.* This definition has long been held unobjectionable, especially in Germany. Professor Jacob made it the basis of his system of taxation, though he modified it in one respect. The necessaries of one man, he said, are different from those of another; a professor, for instance, wants books and instruments; he also wants menial servants, for he would have no leisure if he had to cook his own food, &c. Hence, Jacob concluded, the net income will not be found by deducting an equal amount per head of the population from the aggregate of all incomes; we ought to establish a scale, adapted to the various classes of society, indicating the 'necessaries' of each class. In this manner the net revenue available for taxation will be ascertained. Jacob's theory closely corresponded to Ricardo's, excepting the point just alluded to. What they held in common, however, was simply a remnant of the antiquated Phynocratic system. In 1863 Professor Schmoller contributed a Paper to the *Tubingen Review*, in which he contrived to show that this acceptation of the term 'net revenue' was wholly fallacious, and, therefore, did not afford a proper basis for taxation. Income, he observed, is all that accrues to a man in a given period; *net* income is all this, deducting only cost of production; in short, anything a person can spend without eating his capital. Schmoller's definition is the only correct one, and has since been generally adopted. Professor Pierson was glad to see it had also been adopted by Mr. Chadwick; yet he believed Mr. Chadwick had not always consistently adhered to it, for he advocated the idea of deducting from certain people's incomes what they require to meet their own personal wants. This would never do. Either we should call income anything available for private expenditure, and then no such deductions are to be allowed, or we are bound to adopt Jacob's definition, but then we should take Jacob's scale of necessaries along with it. If necessaries are to be deducted, they should be deducted in all cases. On this remark, however, no peculiar stress was to be laid. He rather wished to call attention to another point on which he found himself at issue with Mr. Chadwick. It was the idea underlying his whole Paper, that when a proper definition of income had been found it should be made the basis of the income tax. He did not agree with that, because, although it might appear paradoxical, he believed that when a proper definition had been found it ought not to be made the basis of taxation for two reasons: first, because in many cases, even when they knew theoretically what income was, they could not ascertain what it practically was; and, in the second place, if they could ascertain this, by having the income tax on a thoroughly scientific basis, they would have an impossible tax. Mr. Chadwick had rightly said

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that when the value of the land increased, by that very fact, and apart from a rise of rent, an income accrues to its owner which ought to be taxed.—[Mr. CHADWICK: I said, when realised.]—But if they spoke of the increased value of land they should also speak of the increased value of stocks. When he bought stocks at 80 and they rose to 100 there was a difference of twenty; but how were they to ascertain whether this aggregate of value had really taken place or not. It might be proposed to charge only the realised difference; but why should the case of the realised profit be taxed, and in the other case not? Then, with regard to farmers' profits, how were these to be ascertained? In England they fixed the income of the farmers at three-quarters, and in Scotland at one-half the rental; but this was really a very amusing way of settling the question. They might as well fix the farmer's profits by the length of his nose or the colour of his eyes, because there was no connection between the rental a man had to pay and the income he enjoyed. To really ascertain what his income was, the farmer would require to have a clever bookkeeper always at his elbow, and perhaps he should have two, and then these two bookkeepers would have interminable discussions between themselves as to what income was. If they could have a thoroughly scientific tax no doubt it would be a very beautiful one, but then the Chancellor of the Exchequer would say it was not a tax for him. He had always looked upon the English income tax as an assemblage of different taxes under one name. If they wanted to keep it, and he did not see why it should be abolished, they must put up with small defects, and look at grand results. They should not try to place it upon a scientific basis, but do what they had always done—keep it on a practical basis. There was one peculiarity of the English nation, and it was this: they had always been scientific in scientific matters, and practical in practical matters; and he would advise them to stick to that.

Mr. DAVID MCLAREN (Edinburgh) said that anyone who had had the experience which the Income Tax Commissioners had had would agree that something ought to be done in the direction of an equitable adjustment of the income tax, and the doing away with the temptation to make false returns. It would be impossible, he considered, to propose any scheme which would be both scientific and practicable. He agreed with Mr. Chadwick in what he had laid down as the general principle. Mr. Chadwick would make an increase in the value of land or houses. In regard to the value of fixed property he differed from Mr. Chadwick. He thought people should not be taxed for the increased money price of property unless they were to be allowed also to deduct losses which might result from transactions in the place of gains. With regard to farmers, he thought they should keep books and make returns; but he was afraid that would be a rather difficult matter.

Mr. C. B. MCLAREN, M.P., said he thoroughly sympathised with the arguments brought forward by Mr. Chadwick on the question of a proper calculation of the income tax, especially with reference to property of a perishable nature. He could not, however, agree with all Mr. Chadwick's calculations on the value of property of every kind, and he thought Professor Pierson's remarks were an admirable answer

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to some of the fallacies which appeared, to his judgment, to be contained in Mr. Chadwick's Paper. He could not see why, if they were to tax the increased value of land, they ought not to apply the same principle to other property, and have an annual valuation of a man's pictures, horses, and stock. He condemned the manner in which mines were dealt with, and their treatment seemed to him a striking illustration of the manner in which the people of this country adhere to principles once accidentally adopted.

Mr. P. P. SELLER (Tain) referred to the way in which farmers' books were kept. A great many farmers did not keep any books at all, except a cheque book, while others kept a rough record of their sales and expenses. Farmers considered that a farm properly taken ought to pay about 8 per cent., namely 5 per cent. as interest on the capital invested, and 3 per cent. for the labour and skill in management. At one time they used to reckon 10 per cent., but at the present time 8 per cent. was all they could get. Within the last eight years the farmers had lost about one-third of their capital.

Lord REAY said the reason he spoke was simply to ask for an explanation on one point. He agreed with Professor Pierson in thinking that they would never get an income tax free from even strong criticism. While, however, this was on the one hand quite true, and while, as Professor Pierson had said, 'English people were scientific in scientific matters,' he would be sorry to admit that they did not allow science a voice in their practical affairs. He believed the whole tendency of their legislation in these last years had largely been to consult scientific men about their practical concerns. In the Department of Public Health all that had been done had been in almost every respect the direct result of what they had learned from scientific men; and he would be sorry if anything were said in this department which might give rise to the idea that they underrated scientific men, political economists, and others. Something more hopeful was required from their able and learned political economy friends than this cry of despair as to the improvement of the income tax. He did not wish to discourage so completely the efforts to make the income tax more just than at present. He thought the two speakers who had followed Professor Pierson, especially the member for Stafford, had noticed some possible objections to the existing income tax. Professor Pierson had called attention to an important element—namely that of the depreciation of stocks. If the theory of Mr. Chadwick were followed out, certain stocks which were constantly changing from hand to hand would frequently be paying income tax, while other stocks which remained in the same hands would not pay the tax so frequently. In regard to farmers' profits, Professor Pierson himself seemed to think that if it were left to farmers to assess themselves they would require two bookkeepers; while Mr. Seller said many did not keep books at all; and under the circumstances there was no other alternative except some rough and ready method of assessment. If he understood Professor Pierson rightly, he said that in their reforms they need not be concerned about the possible diminution in the value of corn, because there would be a relative depreciation also in the income tax, the income tax being paid in the same coin,

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and therefore also reduced in value. As this had not been generally understood, he ventured to ask for some further explanation. There was no doubt, as Professor Pierson had said, that even if they got a scientific definition of income it would not simplify the income tax; and the question was whether, after all, they were right in calling the tax an income tax, as it really was not a tax on income pure and simple. In our present system of taxation we could not afford to do without it, and he felt sure that in the measures the Government had carried they were quite right in removing the duties they had removed, and in adding a penny to the income tax. The income tax was an element in their admirable system of taxation—and Professor Pierson would probably agree with him that the English system of taxation was, as compared with other systems, the most scientific and the most practical, so few articles being taxed—for which it would be difficult to find a substitute.

Mr. W. Botley (London) said that, with regard to municipal corporations holding property in trust, it was a question whether they should be taxed, because, what would be paid out by one hand would be taken from the other. Farmers' bookkeeping had been alluded to by three speakers, and he might say he had always advocated a system of bookkeeping for farmers; and he found that the respectable farmers of England were beginning to keep books in a more regular way, with great advantage to themselves. He knew one farm in which every acre had its cost, and so completely were the books kept that the cost of every acre of wheat and mangold could be seen at a glance.

Mr. Thomas Taylor (Aston Rowant) said he agreed generally with what had been stated by Mr. Chadwick, with the exception of that part which referred to the value of land. If his proposition was to be applied to land only it would be unjust, and to apply that principle fairly, it ought to be applied to all property of every description. He agreed with what had fallen from Mr. Seller, and, speaking as a large farmer, he could confidently state that very few farmers of arable land in the Midland counties had made any profits during the last three or four years, but had been paying income tax out of their capital. He was much surprised at one statement made by Mr. Chadwick, namely, that two large towns in Lancashire contained a sufficient number of names to pay the whole of the income tax now raised under Schedule D. This was a very grave charge to make against those towns, and he was much astonished to hear it. Speaking from his own experience as an Income Tax Commissioner, he must say that, in his opinion, the deceptive character of the returns made by traders and merchants was much exaggerated by Mr. Chadwick and Mr. McLaren.

Professor Pierson, in replying to Lord Reay, said that a depreciation in the currency produced, as they all knew, a general rise of prices, and this included a rise in the money price of land. If a man invested 1,000*l.* in land, and sold it after some time for 1,200*l.*, there was a clear profit of 200*l.*, and he ought to be charged for it. Yet if land had merely risen in money value and not in real value there was no profit obtained from its sale—the purchasing power of money having decreased, there was no real profit obtained. But how shall we ascertain

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whether the actual value or only the money price of the land has risen?

Mr. CHADWICK, in reply, said he thought Professor Pierson had laboured under some misapprehension on the object of the Paper, and he disagreed with his views as to the difficulties he had referred to. He had been accustomed to read everything written on the subject, but he had been compelled to fall back upon the practical experience of many years; he had in his Paper rather confined himself to a consideration of the absurdities of the practice according to the official definition of the tax. In the appeal case of Knowles against the decision of the Income Tax Commissioners, referred to in the Paper, they had for the first time succeeded in getting a legal decision and definition that *coal* was stock in trade, whether in the earth or above it; but in many cases they had still to pay income tax on the consumption of their capital. In discussing this question with most experienced men in the Committee of the British Association, they had arrived at the conclusion that the theories raised as to the impossibility of a practicable definition of income were not sound, and if time permitted he believed he could convince Professor Pierson that an exact definition of income for purposes of taxation might be practically adopted. With regard to income from stocks and shares, if they bought and sold these at the present moment they were defrauding the income tax unless they paid on the profits. He would not discuss the question of farmers keeping books, taking it for granted that they could not and would not do so, and he therefore believed an assessment of one-half their value would be the most equitable arrangement. In discussing this subject on his Motion in the House of Commons, the opinions of many Chambers of Commerce were referred to in favour of further inquiry, and he had impressed upon them the practicability and necessity for equitably adjusting the tax, but it had been put off year after year, and no earnest efforts had been recently made to improve it.

The PRESIDENT (Sir Ughtred Kay-Shuttleworth, Bart.) said he should be wanting in his duty if he did not express the thanks of the Department to Mr. Chadwick for the very lucid and concise Paper with which he commenced the day's proceedings; whilst doing this he would venture to guard himself carefully from committing himself to accepting some of the statements that Mr. Chadwick had brought forward. After what had been said by a person of so great experience as Mr. Taylor, they might feel some doubt whether Mr. Chadwick did not carry his idea of untrue returns a little further than the facts justified. The speaker who had followed Mr. Chadwick had raised some objections, which he did not think had been met, to the proposal that increase in the value of property should be subject to income tax. The difficulties which had been raised must make them feel the gravest doubts as to whether the principle which Mr Chadwick advocated could be introduced. With respect to the mode of estimating farmers' profits, he did not think the present mode was liable to all the objections of Professor Pierson. This was an instance of the practical rough and ready way in which they dealt with these matters, and he did not see what better mode could be adopted. Professor Pierson meant, he

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believed, that if they wished to improve the income tax it must be done practically, and this was very comforting as coming from a Professor of Political Economy, as it rather indicated that their rough and ready modes of doing these things were as good as any scientific mode which could be proposed.

MISCELLANEOUS.

The Recent Controversies upon Economic Method, and the Proper Limits of Economic Science. By WILLIAM WESTGARTH.

INTRODUCTORY REMARKS.

The New School.

I PROPOSE in this Paper to give to the still much disputed question of the proper limits of economic science the reply of a merchant or man of business, as from the ground of fact and experience in the business world. We have but to glance through the most recent economic works to be aware that the question is still one in high dispute. A 'new school' has latterly arisen upon the subject, which seeks to uproot all the old definitions and limitations, and to merge the economic relations into the wider field of Sociology or the Science of Society. The argument of this school is, that although there undoubtedly exist economic interests or tendencies, they are so constantly interfered with by other interests in man's most complex nature, that we cannot isolate or distinguish the one class from the other. We vainly attempt to do this, says this school, by having recourse to abstract or deductive arguments, which lead to conclusions completely at variance with the outcome of the facts of life. Thus if it be asserted that, as a general principle, men, in obedience to their economic instincts, will ever buy in the cheapest and sell in the dearest market, the new school will rejoin that there are so many and such various interfering causes, that, as matter of fact, no society of men that ever existed has accurately responded to our asserted general principle, or indeed has otherwise than seriously and constantly departed from it. This new school's position is in effect this, that we are to concern ourselves mainly with the facts of life, and not with theories and abstractions regarding what these facts might possibly be under other and non-existent circumstances.

The Old or English School.

And what has the old or English school to oppose to this

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invasion of new doctrine? In truth, the old school has never been agreed or decided upon its teaching in this particular direction. If we explain that it has tried more or less to mark out a distinct economic field, and that no section of its following has gone so far as the new school in its largely inclusive economic method, we say as much as the case will admit of. All the rest, within the ranks of the old school, seems uncertainty and disagreement. While the old school is in this middle course, uncertainty, its new rival presents to us substantially this case, that the outcome of fact is the proper basis for the study of society's interests; and that in this outcome of fact the consideration of man's economic interests cannot be detached from that of his other interests.

Illustrations from the Facts of Society's Progress.

Let me illustrate these respective positions by reference to some principal aspects in which human society has really presented itself to our view. We are to infer, as we go along, from the principles of our respective schools, how each would regard these different social aspects in their relation to the economic question.

1.—*The Barbarous Stage.*

First, then, let us look at what is called a condition of barbarism. The people may nevertheless constitute a society, if the members or families live together, and by habits and manners interact upon each other. But they may not exhibit a regular industry or exchanging of products. This is a condition of actual life, for there are Australian tribes, for instance, which still exemplify it. The late Mr. Bagehot, answering for the old school, would simply say of such condition that it was a pre-economic state. The economic conditions not having yet arisen, economic science had little, or rather had nothing to do with it. On the other hand, Mr. Cliffe Leslie, for the new school, would regard this case not as that of any pre-economic state, but as an early stage of economic condition;[1] for had not this kind of society, he would urge, its economic wants as well as other societies, and did not its members take their own means to satisfy these wants?

2.—*The Feudal Stage.*

Secondly, our society, let us suppose, has now advanced

[1] 'The Known and the Unknown in Political Ecocomy,' *Fortnightly Review*, February 1879.

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into feudalism. Here is regular industry indeed, with association of labour, with shops and markets, and exchange of products; but at the same time with the whole society, from its very highest to its very lowest, so dominated by the personal will and the personal purposes of a comparative few of its upper class, that the economic interests or instincts are everywhere modified, impeded, or quite disregarded. The England of the Henrys answers generally to this condition, and the country districts of Russia and of some other Continental countries of Europe may answer to it still.

The new school sits entirely at its ease over this chequered picture, no part of which, with its advancing freshness of social variety in outcome of fact, in any way disturbs its philosophy, or is otherwise than with cordial assent included in it. Very different is the position of the old school in face of the commencing intricacies of this particular social aspect. Its members are torn by internal dissension as to whether or not the exchange of products should form the economic basis; and they are without any distinct principle which shall decide for them this fundamental point, or indeed any other in the question. There are, perhaps, as many and as high names in this 'conglomerate' old school, asserting that economy is based upon exchange, and that apart from exchange their science has no existence, as there are those who assert on the contrary that the limitation to exchange or to the 'market' and to market value is utterly inadequate and even contemptible. In short, a large section of our old or English school would hold so far with the new school, that this very feudal condition presented inseparable conditions which forced the economist out of the narrow channel of mere exchange.

3.—*The Modern Commercial Stage.*

Thirdly and lastly, let us go on to the high commercial development of modern business life. England and America are our best examples, although the examples are now almost everywhere. England, with commerce free to the world, is our most striking instance; but America, with perfectly free trading intercourse throughout a lesser, but still a large and diversified world of her own, is hardly second in the illustration. Here the new school, whatever its courage or determination, is met by a multitude and variety of fact and result that are perfectly appalling. The simplicity of comparative rote or routine, that marked the two previous stages, has in this third stage almost disappeared. And yet society is in this later condition more free than before to act upon the simple econo-

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mic instinct to buy at the cheapest and sell at the dearest. And society does, as matter of fact, act in the main in this way, so far as regards its economic interests. But, on the other hand, the social and intellectual interests have had their corresponding development and progress, and their intervention is endless in modifying the action prompted by the purely economic interests. Predictive results being now out of the question, the new school's contention is that the outcome of fact is our proper study. But that school must be overwhelmed by the endless array and diversity of fact, all of which it has bound itself, by its programme of principles, to respect and observe. We might liken its case to that of a student of the law of gravitation, who, with the new school's zeal for inductive method, felt bound to follow every projectile through all the frictional accidents or interferences of its course.

The old school, again, although wanting a generally recognised foundation on which to build its fabric, derives assurance in this last social stage from the more obvious ascendency or the clearer course of the economic instinct or principle. This school is thus assured to do more or less as the student of gravitation still more plainly ought to have done, namely, to regard as in the nature of friction all the interfering elements. But a decided weakness of this old school is its tendency to restrict its field to this advanced social state, thereby in effect admitting that it fails to discover a principle capable of guiding it through all the stages. Thus Mr. Bagehot, for instance, feels disposed to limit political economy as being only 'the science of business, as business is in large productive and trading communities.' This, as Mr. Sidgwick remarks, is 'a rather narrow range for orthodox economists.'[1] Indeed, as I may add, it is hardly better than to throw down our arms in despair and surrender the battle to the enemy.

PROPOSED VIEW OF THE SUBJECT.

After this introductory sketch of the respective positions of the two schools which may be held to represent the economic science of to-day, it may be convenient that I should indicate the position I propose myself to take, as you will thus, I hope, more clearly, and with a greater degree of interest, follow what I have further to lay before you.

At once I say that I cannot agree with the new school. Its method is in exact contradiction to that by which our great modern scientific progress has been mostly accomplished,

[1] 'Economic Method,' *Fortnightly Review*, February 1879.

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namely, by the subdivision of subjects, so as to allow our limited mental range to take a better and preciser grasp. Our effort, therefore, should be to disentangle the different interests. The question should not be as to merging Economics into Sociology on any allegation of difficulties, or of giving to the former a greater breadth, interest, or dignity. Science has properly no preferences after this latter fastidious fashion. We are to inquire if there is substantially a separate or separable subject of the economic interests. If we have ground to conclude affirmatively on this point, our aim should be mainly to study those interests as separate and distinct things, in order that we may thereby understand them better.

Professor Jevons on the New School's Method.

For this view of the subject I am glad to be able to quote an authority so high, so considerate, and, not least, so recent as that of Professor Jevons, who in the second edition of his *Theory of Political Economy*, published only last year, speaks as follows on this very point:—'A remarkable discussion has been lately going on in the reviews and journals concerning the logical method of the science (Political Economy), touching even the question whether there exists any such science at all.' After alluding to Mr. Cliffe Leslie and Professor Ingram's prominent part in originating this discussion, and the endeavours of the former 'to dissipate altogether the deductive science of Ricardo,' he remarks that many of this new school 'would be glad if the supposed science would collapse altogether and become a matter of history, like astrology, alchemy, and the occult sciences generally. Mr. Cliffe Leslie would not go so far as this, but would reconstruct the science in a purely inductive or empirical manner. Either it would then be a congeries of miscellaneous disconnected facts, or else it must fall in as one branch of Mr. Spencer's Sociology.' 'The present chaotic state of Economics arises from the confusing together of several branches of knowledge. Subdivision is the remedy. We must distinguish the empirical element from the abstract theory, from the applied theory, and from the more detailed art of finance and administration. Thus will arise various sciences.'[1]

The Old School Method; its Uncertainty.

These remarks of Professor Jevons, with all of which I entirely agree, support me fairly in what, in my introductory

[1] Preface, pp. xv. xvi.

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sketch, I have as yet said of the new school. And now a few words upon its opponent, the old or English school. Because I cannot, from my practical standpoint, agree with the one, the alternative is not of necessity an accordance with the other. The defect of the old school is, as I said, the want of some commonly recognised foundation. The new school threatens to swallow up economics in sociology, and the old school can put out no anchor that will hold the ship in a roadstead of its own.

DISTINCTION OF ECONOMIC SCIENCE FROM SOCIOLOGY.

The chief object of this paper is to suggest what is the true economic foundation, and what is the distinctive principle that separates economic science from sociology. Sociology, or the science of society, has to do with associated man in all his many diversified interests, economic and moral, physical and psychical. Economic science is that section of sociology which has to do only with the association of men in labour or industrial exertion.

First, let me here comment on the great importance of the associative idea. It is only from man in association that we have a science as result. No science of man emerges from isolated human action. A science of society is the fruit only of human association and interaction; and on the same principle economic science arises out of the association of labour. Again, exchange arises out of this labour association; it neither has nor can have any other origin. And thus there is no economic science apart from or short of exchange. As we shall presently see, we thus clear the ground for the true position and starting-point of our science.

Second, the association of labour and the sub-division of labour are not necessarily one and the same thing, although they are mostly familiar to us as such. A man might subdivide his own labour, and thus increase its efficiency, without being associated with other men. In Smith's famous pin-factory case the subdivision of the associated labour, as he points out, enormously increases the relative output of pins. But one pinmaker, solely by himself, might advantageously subdivide his pinmaking, as by taking the heads one day, the bodies a second, the pointing a third, and so on. This is division of labour with, no doubt, a good measure of its advantages, but it is not association of labour.

Third, let me further point out that the two ideas of associated man and associated labour are not necessarily conterminous; the two conditions do not necessarily arise

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together. In advanced societies they hold in common; but in the case, for instance, of our Australian tribes, we have associated man, giving us Sociology, but not yet associated labour to give us the Economic Science. We have not in the Australian case, that is to say, the associated industrial exertion which results in exchange, in capital, and in money, thus, and thus only, constituting an Economic Science.

Fourth, being bound in the interests of the progress of science thus to distinguish and separately to study the economic element, what should be the method of study? Not surely that of giving our chief attention to the outcome of fact in society's action, for that is the mingled, I might even say the confused, result of all the diversity of human interests and motives. I agree with the old school generally, that our study must be mainly deductive. When a trader refrains from exacting the full price he might get for some article, because his customer is poor, or is a near relation, or had previously done him a favour, or because there was some reciprocating local custom, and so on, we cannot take 'the outcome of fact' as the economic result. This would be no more correct than the inference from an impeded and arrested cannon ball as to the law of pure force or motion. The 'friction' must be traced and allowed for in both cases; in other words, the treatment must be mainly deductive.

The New and Old Schools.—The late Discussion.[1]

I cannot better illustrate the case as it now stands between the new and the old schools than by falling back upon that late discussion which Professor Jevons has alluded to. It was headed by Professor Ingram, in his most able Economic address in 1876, to the British Association at Dublin;[2] and was sustained in lively rejoinder chiefly by Mr. Lowe (now Lord Sherbrooke), Mr. Cliffe Leslie, and Mr. Sidgwick. While briefly adverting to the chief points of this discussion, I shall find my occasions, as I hope, to explain and exemplify that Association of Labour upon which I would propose to build, and within which I would propose to restrict, Economic Science.

The New School.—Dr. Ingram.

Dr. Ingram's main contention on behalf of the new school was against the prominence given by the English school to the deductive or *a priori* reasoning method, at the expense of the

[1] This was carried on chiefly in the *Fortnightly Review* during 1878–9.

[2] *Present Position and Prospects of Political Economy*, separately published by Longmans, 1878.

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inductive, or method of observation. He would simply reverse this position, thereby making the economic interests substantially an inductive science; that is to say, these interests were to be studied mainly through the actual outcome of the facts of life; and as this outcome was more or less a blending of man's social or moral interests with the economic, the latter were thus inseparably combined with all Sociology. And happily so, adds the Professor, for the economic interests are thus promoted into a nobler and more attractive field of human study.

But in a popular paper of this kind it is necessary to use some common English upon those hard abstractions—the *deductive* and the *inductive*. The deductive argument then assumes principles, and deduces from them results in accordance; as when we assume that men always follow their own interests, and we venture consequently to assume what they are to do in cases where those interests are concerned. The inductive argument, on the other hand, is based, not on principles, but results, or the outcome of actual fact. This is ever different from anticipations founded upon any partial motives, because it is the outcome of all the co-operating motives.

Now the great contention of the new school is that their opponents, in arguing from what may be called purely economic principles, lay down a course for man which, as matter of fact, man never really takes. The new school will allow that man might take exactly this predicted course if nothing in his nature interfered with the mere economic tendency. But as his nature includes larger and higher aims, which are continually asserting themselves along with the economic considerations, in a general or mutual modification, the final outcome of human action is never either the one or the other independently, but more or less of a mixture of all. The new school contends therefore that the actual outcome of fact is what ought to be mainly our study in the economic as in any other of man's interests. According to that school we are but slightly concerned with principles which lead to results that never happen. Such principles represent at best but a set of tendencies, says Dr. Ingram, which are continually interfered with by other tendencies in the actual outcome of life. And thus, as he adds, the great question of Society is not to be divided into Political Economy and other separate studies; it forms but one subject.[1]

[1] Ingram, p. 15.

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The Old School.—Mr. Lowe.

Mr. Lowe entered the lists with spirit for the old school. He contended for a substantially deductive science, because, while wealth is its subject, in what concerned wealth you can always tell how men will act, although you cannot tell in the social, or moral, or religious relations. He therefore recognised an economic science, but could not give the science quality to Sociology, with its still inchoate subject and its mongrel name. His view on this point is, that 'Science means knowledge in its clearest and most absolute form, the test of which is prediction.'

The New School again.—Mr. Cliffe Leslie.

Mr. Leslie very ably and effectually disposed of Mr. Lowe upon the two points the latter had made so prominent, namely, the narrow expression 'desire for wealth,' and the definition of a science. I cordially agree with Mr. Leslie's pungent remarks upon the narrow insufficiency of the phrases 'desire for wealth,' 'love of money,' and such like. These are alike inadequate and ignoble as a foundation for economic science. Professor Hearne, of Melbourne, has more largely and happily termed our subject 'the science of efforts to satisfy wants.' Professor Jevons is still nearer to the true standpoint when he adds to this that it is efforts 'to obtain the most riches at the cost of the least labour.'[1] Our science is properly that of the economy or the economising of exertion; that is to say, of industrial or wants-supplying exertion. Such is the prime object in the association of labour. Let us at any rate cease to needlessly degrade our subject by basing it upon mere 'money making.'

Again, Mr. Leslie questions Mr. Lowe's definition of a science. The latter would have the rank or quality of a science to depend, not on the nature of the subject itself, but on the clearness or sufficiency of our knowledge of it. This is surely a very precarious light to guide us as to what is or is not a science. Mr. Leslie says truly that there is a science of society which is progressive by observation and experience.[2]

Economic Science: What Distinguishes a Science?

But none the less Mr. Lowe's view is a very common one. It is the view taken, for instance, by no less an authority than

[1] *Political Economy*, by Jevons, in Science Primer Series, 1878.
[2] 'Political Economy and Sociology,' *Fortnightly Review*, January 1879.

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the Bishop of Manchester, in his address last year to the Social Science Congress. Such a view, however, leaves us altogether in doubt about such subjects as economy and sociology; for if unable to say they are sciences, we are also unable to determine that they are not. Let me here briefly indicate what seems to me the true distinction of a science, and wherein it differs from an art. A science then has to do with general law, an art with special human design. Thus we have, on the one hand, a science of astronomy, and on the other an art of tailoring or shipbuilding, whose outcome is the coat or the ship that was predesigned.

But it may still be asked, what are the characteristics of a Science of Society, and how do they co-ordinate with a subject apparently so different as the Science of Astronomy? To answer this, let us consider how human societies usually present themselves; and in order to go directly to our point, let us confine our view to their economic aspects. History, ancient and modern, supplies us, in scores of instances, with the following regular succession in each case. First, there is the rude state. Next, there is regular industry. This passes into associated industry, with its customary marvels arising from labour subdivision. Thereupon arise exchange, and the stocks of capital which exchange requires. And lastly, there is always in some form the use of money. Here we have an outcome not of preconceived or preconcerted human design, but of general law; and consequently there is a science of society, as illustrated in these its economic interests. Astronomy itself may indeed be viewed as a science of society—of a society so extremely simple in the merely physical ways of its members, that we already know pretty well nearly all about it; while of that far more complex human society, which has the psychical in addition to the physical features, we as yet know comparatively little. Nevertheless both subjects are and must always be sciences.

Mr. Leslie on Economic Method.

Mr. Leslie's further contention goes entirely for the inductive method of the new school. We cannot predict how men will act in the pursuit of wealth, he urges, because many various motives are concerned in their action. We cannot say, with Mr. Lowe, that the love of wealth prompting to exertion, and the love of ease prompting to rest, comprise the whole question, for many men nowadays keep on at some work for the sake of pleasantly employing time. Man's mind, in short, is so complex that the only sure way to results is observation

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of facts. Granted an acquisitive principle, he says, it is liable to constant interference with its working. Deduction is everywhere unsafe. It is unsafe even with the lower animals, for the dog may not make direct for the bone, he too having his distractions; 'he has a regard for his master, and a fear of the police, and he has other pursuits.'[1]

As I have already said, I cordially go with Mr. Leslie in his war against such inadequate and incorrect expressions for our science as 'the desire of wealth,' an expression, as he reminds us, not to be found in Adam Smith. But in other respects, I would rather side with Mr. Lowe and the old school in general, and with all modern tendencies in science. These tendencies aim at disentanglement and sub-division of subject; and this can be done only by an argument that is mainly deductive. To a higher power there are indeed no breaks in nature's continuity, no separate studies, no distinctions of a science or an art. But, as our limited capacities advance in observation and experience, the road gets blocked with facts, and only by subdividing subjects can we get on intelligently. There is an economic tendency in man, and the object of the science of economics is substantially to realise and trace this tendency. There is also a gravitation tendency in physics, and the study of gravitation is always separative, that is to say, deductive, notwithstanding that every experiment over the earth's surface, every 'result' or 'outcome of fact,' in consequence of constant and various frictional interference, is at variance with the pure deduction. The greater complexity of the human case, which, as we have seen, does not remove it from its brotherhood of science, does not any more take it out of the range of this physical comparison.

The Neutral, or Reconciling School.—Mr. Sidgwick.

Lastly comes Mr. Sidgwick, who, in one direction of his argument, would show that the differences of the two schools are hardly so sharp as Mr. Leslie makes them. In another direction he points out the substantial difference of aim between the two schools; the old school speaking of and aiming at political economy; the new, while speaking of economy, aiming really at complete sociology.[2] In illustration of this animadversion of Mr. Sidgwick I give the words of Adolf Samter, for the new school, quoted with approval by Dr. Ingram:[3]—'Political economy,' he says, 'as it has developed itself since

[1] Political Economy and Sociology.' *Fortnightly Review*, January 1879.
[2] E onomic Method,' *Fortnightly Review*, February 1879.
[3] Ad ress, p. 31.

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Adam Smith, is no longer adequate to the requirements of the present. The question is, as the last resort, not about wealth, but about man. Wealth must retire into the background; man must come to the front. Not only material, but immaterial, interests must be kept in view.' To all this one may reply surely in good common sense, that if the subject is to be man, there is only confusion by beginning with it as political economy. Herr Samter is so comprehensive that he has travelled even outside of all sociology. Man, simply and comprehensively as man, is the subject of science generally, but only man in association is the proper subject of sociology. As I have already said, man's labour, in association, is the proper subject of economy.

In Mr. Sidgwick's other remarks I find support to my conclusions as regards the limits of Economic Science. Dealing with the still much-disputed question, 'What is Wealth or Value?' in the economic sense, he concludes, with Mill and many others, that the term must be confined to that only which has exchange worth or power. He does this for these two reasons: First, because such is the ordinary view of wealth; second, because of the indefinite, the non-measurable character of things that are merely useful, but have not also marketable or exchange value. This value, in short, arises out of relative scarcity in the things useful to or used by society.

CONCLUDING REFLECTIONS.

I have now only to lay briefly before you what is Economic Science as based upon the Association of Labour. You already understand that no science arises out of man in isolation. It is by man acting upon man that we have a science. This association of man gives us the Science of Society, and the association of his labour gives us Economic Science.

It will be objected to this view that the association of labour is an indefinite feature which has no clear, indisputable beginning in society. That is true, but there is nevertheless a recognised condition of associated industry or 'business life' which is substantially distinct from isolated industrial life on the one hand, or simply barbarous life on the other. When Mr. Crookes announced lately a fourth state of matter arising out of the comparatively free paths of molecules in an extremely rarefied air, he was opposed on the ground that this condition had no distinct beginning, but was a graduation out of the ordinary gaseous state. This was not denied, but Mr. Crookes properly replied that so were also the other states of

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matter—the solid, the liquid, and the gaseous. Every step in our knowledge of scientific fact shades off the old lines of distinction. But these are still substantially different conditions with their different qualities for our study. We must distinguish between difficulties arising from wrong principles, and those which are inherent in the nature of things. The former are remediable, the latter are not.

Let me now approach Economic Science directed by the limitation I have laid down. Taking its rise in the association of labour our science has nothing whatever to do with unassociated industry. We have thus a clear principle by which to decide upon that still disputed question as to whether exchange is or is not the basis of economic science. On the affirmative side, Professor Perry, for instance, remarks that 'so far as men satisfy their own wants by their own efforts without exchange they stand outside the pale of this science.'[1] But this restriction is vehemently opposed by many of our leading economists. I need only to quote Professor Jevons, who, in his Theory of Exchange, as a section of his late work on the *Theory of Political Economy*, cannot see in exchange this exclusively fundamental position, although he admits the principal part it plays. But exchange, as the step unfailingly consequent upon labour-association, must be alike fundamental. As I have already said, there is no Economic Science outside of or antecedent to exchange. But, as I have also said, we stand upon clearer ground to base our science not upon exchange, but upon that condition which is the cause of exchange, namely, the association of labour.

We have now, therefore, in this labour association a principle which is to decide for us in most of the difficulties and uncertainties that have beset our science. For instance, what is Wealth or Value? What is Capital?

1. *Wealth or Value.*—These two terms mean exactly the same thing, with this difference only, that the first has to do with the concrete, the other with the abstract. Wealth, in the strictly economic sense (the only sense we are here concerned with), is that only which has exchange value. Such is our limitation of the term Value. Any other kind of value than that of exchange, such as the value of a loved child to its parents, the value of cherished family relics to the family, the value of water to the thirsty man where boundless supply runs at his feet, the value of fresh air to the sickly from nature's exhaustless surrounding atmosphere, and so on, are values which our science has nothing to do with. The common

[1] *Elements of Political Economy*, 1871, p. 38.

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element of 'utility' belongs to these values, but the testing element of scarcity is wanting. Value, in the economic sense, arises out of relative scarcity; that is to say, out of supply short of demand. It is this relative scarcity for time being, in whatever way arising, that confers and regulates the exchange power for such time.

But this, although, as Mr. Sidgwick remarks, the common view, is very far indeed from being the undisputed view, as we may gather, for instance, from the recent work on *Practical Political Economy*, by Professor Bonamy Price. The Professor has indeed high authority, for Adam Smith preceded him in maintaining a double sense of value, namely, as value in use and value in exchange. Smith's high authority has, as Professor Perry remarks, confused this question of value ever since.

2. *Capital.*—In his Theory of Capital, Professor Jevons disregards exchange. He cannot see that the food, clothing, furniture, &c., that in his view constitute capital, are any more or any less such by being either within or without the exchange sphere. Capital, according to Adam Smith, is that which yields revenue or profit; or briefly, it is everything that is in business use. Consequently what passes out of business life, that is to say, out of exchange, has ceased to be capital, and what has never entered such life has never been capital. Smith's successors have mostly quitted this substantially correct view for another, to the effect that capital is that only which is used in 'production'; in other words, that it is only that part of wealth which is used to create further wealth. And so the primitive hunter who saves up food enough to enable him to make his bow and arrows is a proto-capitalist. This 'production' limitation, as I am compelled to remark, is an artificial distinction of the fund of capital which has no real existence, as in actual fact capital is a fund that indiscriminately supports all business life, whether engaged in what is strictly production, or in 'distribution,' or anything else. But Smith's comprehensive definition has a confusing tendency, from his associating two quite different things, the so-called fixed and the floating capital, under the one term capital. Capital is the fund of man's direct requisites; while the fixed capital is simply agencies or instruments for producing capital, man himself, or 'his acquired and useful qualities,' being one of such agencies.

The determination of capital is really the most important point of economic science, and from want of a sure principle of determination our science is still like a ship without a rudder. That principle we seem to have found when we view capital as

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solely the fruit of exchange. It consists, in fact, of all the stocks of trade required for exchange. These may be thus classed: 1st, Things in process of preparation towards the usable condition, that is to say, raw materials; 2nd, Things ready in the market for use, ready to pass out into consumption; 3rd, The 'rolling-stock' of business life, which includes money as a chief item. The extension of exchange, as, for instance, by foreign or other outside trading, requiring large stocks, gives a country a large capital. The stocks come to be mostly owned by one set of persons and used by another, the use always securing to the owner some substantial remuneration. And again, the expense of maintaining the stocks ever tends to the economising or reducing of capital, while trade extension ever requires the increase of its amount. Trade extension is the economising of production by the greater scale of operation. Thus commerce is an everlasting battle between, on the one hand, economy of production through extended trading, and, on the other hand, the concurrent expense of maintaining increased capital. But there is no such result as an indefinite increase of capital; and, on the other hand, there will never cease to be substantial remuneration for capital, because it can never increase beyond the actual wants of exchange. Such are our data for the limitation or 'Law of Capital.'

These two leading illustrations may serve to show that Economic Science is a separable and distinguishable subject, with practically distinct boundaries. It is a fairly distinct section of the large field of Sociology. Sociology begins with the association of man; Economy begins with the association of his industrial effort. The object of this latter association is to economise industrial effort either by the increase of the quantity and quality of the labour-product, or the diminution of the required human effort. With labour-association, and the subdivision of work which is its principal feature, comes of course exchange. And thus our science has to do only with what is connected with exchange. Wealth, in its strictly economic sense, is that only which has exchange value; it is everything that has such value; while by the term capital is meant the whole fund of the concurrent stocks of our direct requisites, while they graduate in preparation from raw-material stages, and while they still remain, whether as things ready for consumption or as business rolling stock, within the exchange or business sphere. These are the foundations of our science, and the structure we build upon them is the logical outcome from the premises. Wherever man's economic

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instinct has free course, that course will ever be towards the economising of exertion by extension of the scale of production, and he thus also concurrently increases capital by the necessity that arises for increased stocks. But man has other active instincts than the economic, so that the actual outcome of human action cannot be purely economic. The economic instinct must be separated from its 'frictional' surroundings, and thus our subject is mainly a deductive study.

Mr. W. D. HENDERSON, Belfast, contributed a Paper on 'The English Theory of Rent,' which has, he said, for its basis the physical facts (1) that the productiveness of any given area of land is limited; and (2) that as increased capital is applied to it, it yields less and less proportionally to this labour and capital, till ultimately it may be so cultivated that it will simply return the cost of cultivation—this cost of cultivation being the minimum which will induce men to labour and to save.

Accordingly as population increases and presses upon the means of subsistence (and this increase of population arises from no motion connected with the production of wealth, but from the influence of one of the most powerful of human instincts), there are two modes in which the necessary food can be obtained.

1. Either by more perfectly cultivating the better land, which at each increase of cultivation yields less proportionally to the labour employed than it did at first; or,

2. By resorting to inferior land, which also yields less to the labour employed than the superior land did.

At each stage of this diminishing productiveness the returns for labour and capital therefore diminish, and it is because the land cannot be cultivated at an equal result throughout that ultimately wages and profit in a country fall to a minimum. The diminution in the yield of the land is the cause and the measure of the diminished returns in all other occupations.

Rent by the English economists is said to be the difference between these returns from the successive applications of capital and labour. If, for example, the first application of capital yields 100, and the second 90, and the third 80, then the English rent is first 10 and then 20.

This rent is said to arise necessarily in the course of cultivation, and it is often called a 'necessary surplus.' It exists whether the land is owned by a great landlord, who charges

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his tenant a rent, or whether it is tilled by a nation of peasant proprietors, where the owner of the better land enjoys a larger return than does the owner of the inferior land.

So long as the actual rent paid does not exceed this economic rent or necessary surplus, the cost of production, it is affirmed, is not affected, because the land can be cultivated on no other condition. Neither does it affect the quantity produced or the number of those engaged in production. As the Duke of Argyll says, summing up the ordinary conclusions in his pamphlet: *The commercial principles applicable to contracts for the hire of land*, rent in some shape exists, and must be paid, it matters not by whom, and no change in the present law can really benefit the pursuit and profession of agriculture.'

Such is a summary of the celebrated English theory of rent, which has often been assailed, and always, I think, unsuccessfully. It is no light matter, therefore, to criticise what has stood unshaken from 1815 to 1880, and survived after the examinations of three generations of writers.

It will be seen that this theory proposes to account for a necessary surplus, both in the case of landlord and tenant, and of a peasant proprietary; and having correctly laid down the law of *production* as a physical fact, it postulates that the *distribution* must follow the same course. It admits, for example, that a man will have a family amongst whom his land will fall to be divided, and each will obtain less for his labour than did the father; but it would deny that he may make an equal division of the land and of the produce between his children. The first dose of labour, to use James Mill's phrase, will, indeed, yield more than the second; but it does not follow that the second labourer will obtain less than the first. On the contrary, the total produce may be, and in fact generally is, divided between the labourers.

Admitting, therefore, that the necessary law of a diminishing proportionate production of the English economists is correct, I deny entirely their necessary law of distribution. To use a homely simile, English economists contend correctly that the result of the successive applications of capital to the land are like the coats of an onion, each smaller than the previous one. But they err entirely when they suppose that where it has to be distributed it can only be distributed so that each person may get a separate layer, and that the first will necessarily be larger than any of the others. It may be equally well divided by cutting through to the centre, and each person obtaining an equal share of all the layers. And it is this latter course which we know is actually taken in a natural state

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of society amongst a nation of peasant proprietors when a man divides his land at his death among his children.

It is no paradox to say, further, that all land may be cultivated so as to yield alike per labourer. There is every variety of cultivation in the best land, from the time that the yield per labourer is at its maximum, at the early stage of cultivation, down to the final stage, when the land will only produce a bare return for the labour and capital expended upon it. In the same way there is every degree of quality of land; from the best, which produces a large surplus per labourer at the first stage of cultivation, till we come to land which will barely support its cultivators. The net produce of the varying quality of land, just as in the former case of successive applications of capital to the superior land, steadily diminishes, and at each stage of cultivation the diminishing net produce per labourer may be equal, whether we regard the better cultivation of the superior land, or the resort to inferior land. In other words, precisely the same motive, the pressure of population, which induces men to resort to inferior land, and obtain a diminished return from it, induces them also more thoroughly to cultivate the superior land, obtaining each a lesser return from it.

The English law of rent thus assumes that the superior land cannot be so subdivided that at each increase of cultivation and consequent diminution of proportionate produce the cultivator may obtain, or tend to obtain, the ordinary wages and profit current in the community. He must, they assert, in all cases obtain more, whilst, in fact, we know amongst peasant proprietors he obtains about the same return for his labour and skill as a good mechanic.

There is thus no necessary surplus at any stage of cultivation, and therefore no economic rent.

If the necessary surplus of the English economists is non-existent, how then does a rent arise? There have been many answers to this. Adam Smith supposed that in cultivating land, or, to use modern terms, transferring non-organic matter into organic, there was a creation of value, and that the rent was the result of this creation. Then it has been maintained that rent is merely an interest on the capital expended in bringing the soil into its present state of cultivation; whilst another argument would make all rent a monopoly of the same class, although not in the same degree, as the rent obtained for some valuable vineyard. Each of these explanations has been strenuously . . . supported for a time; but each has succumbed to criticism.

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Upon the examination of the admitted facts . . . of a diminishing proportionate produce now given, it has been seen that the same land may yield, according to the mode in which it is cultivated, very various returns per labourer. It may be cultivated so as to give the largest possible gross produce, which would be divided amongst all the cultivators, as in the case of peasant proprietors; or it may be cultivated so as to yield the largest net produce, so that the landlord may obtain a proportion, as in England. There are, in fact, two motives for cultivation, and the results may be very different.

To illustrate this, let us suppose there are three qualities of land, which will produce respectively 100, 90, 80, and let us suppose that the superior land will yield to the second dose of capital 80, and to the third 60. It is quite clear that amongst peasant proprietors they will equally willingly, when population increases, cultivate more carefully the better land, where it will produce 180, yielding to each labourer 90, or they will resort to the inferior land, obtaining from it also 90. If, for example, a man had three sons, we may suppose that at his death the two elder will divide the land between them, and each obtain 90, while the third son would emigrate to the second quality of land, which would yield him also 90.[1]

But in the landlord and tenant system the landlord will not allow of any cultivation which does not yield him a profit. When, for example, he can obtain a labourer for 90 who will produce 100, he will have a surplus of 10 for rent. But if he allowed the two labourers, each costing 90 and producing between them only 180, he would have nothing for rent. The landlord's rent is thus obtained by preventing the thorough cultivation of the soil. In other words, as population increases he can obtain labour at a lower and lower rate, and he can employ the labour so that it yields him a surplus.

The extent of cultivation thus prevented must be very considerable, even upon the statement which we have just made. The ordinary statement of political economists is something

[1] Figures used in this way are always liable to criticism, and the results of economic reasoning can be best shown by diagrams. If a perpendicular be erected on a line to show the maximum produce per labourer on the best land, and another and shorter one at the other extremity of the line to show the minimum produce of the same land per labourer, when it is thoroughly cultivated, and will merely support the labourers employed on it, and a straight line be drawn between these two perpendiculars, its gradual approach to the lesser line will show the successive diminutions per labourer as more and more labour is applied to it. But exactly the same diagram would show the gradual diminution in the yield of the several qualities of land till resort was had finally to land which would only support the labourer.

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like this: Suppose that the ultimate cost of production, *i.e.* the minimum for which the labourer will work, is 50, and that the first dose of labour and capital will produce 100, the second 90, and so on, we have the following table of produce:—

No. of labourers.	Ultimate cost of production.	Produce of each labourer.	Gross produce.	Ultimate net produce.
1	50	100	100	50
2	100	90	190	90
3	150	80	270	120
4	200	70	340	140
5	250	60	400	150
6	300	50	450	150
7	350	40	490	140
8	400	30	520	120
9	450	20	540	90
10	500	10	550	50
11	550	—	550	—

These are the ordinary figures given by political economists, and they contend that cultivation will never be carried beyond the five labourers, where the surplus is at its maximum: and no doubt under a system of landlord and tenant it never will. But with a peasant proprietary there is equally no doubt that it will be carried till the eleventh labourer, where the land will simply produce what will keep the owner in reasonable comfort. It is quite certain, indeed, that under any system of land tenure no inferior land will be cultivated which does not return the cost of cultivation; but it is not true, as economists assume, the labour will not be applied to the superior land unless the *additional* return for such labour will support the labourer. On the contrary, the surplus is employed in the further cultivation of the ground; and although each additional labourer may produce less than he consumes, he still produces a part of what he consumes, and the surplus, as we see, is thus very slowly diminished.

This phenomenon of an extra cultivation which does not *per se* pay for the labour employed on it, however curious it may at first sight seem, is one of the most certain facts in the progress of society, and it may be worth while, therefore, to consider it for a moment.

It occurs in this way, chiefly if not entirely: The land is gradually subdivided, and at last each labourer simply obtains what will support him. This being the case, it may be said that whilst part of the labour expended yields more than will repay him for his time and skill and exertion, a part will yield less: or, to speak more accurately, if all his labour were paid at the rate which he obtains for part of it, he would

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have more than would maintain him, whilst if all his labour were paid at the rate obtained for another part it would yield less. In such a case, we might regard the non-paying labour as belonging to that large class of low-paid labour which a person undergoes in order to supplement an income which is nearly, but not quite, sufficient for him. In reality, however, the cultivation of the farm and the reward of the labourer must be regarded as an undivided whole. At each diminution in the size of the farm he has to vary the nature of his labour and his modes of cultivation, and it is not possible to distinguish between the different values obtained. In practice, too, the small cultivator relies a good deal upon the labour of his young children, who at a very early age may find occupation at work which is healthy, and is, indeed, little more than play. But, in one way or other, the fact is certain, that a nation of peasant proprietors do cultivate the land thoroughly, and whilst keeping up a high standard of comfort, and an honourable independence of feeling, work incessantly at their land, without engaging in other pursuits.

I may be told, however, that my definition of a rent is, after all, precisely the same as that of Malthus or Ricardo, and that all my reasoning only enables me to repeat their conclusions. But this is not so. My description of an actual rent paid is, indeed, the same as theirs of an economic rent. But this actual rent does not, as they suppose, arise spontaneously. In a natural state of society it is quite immaterial whether resort is had to inferior land or to a more thorough cultivation of superior land. In either case the same labour produces the same net returns, although less than it did at first. The payment of a rent is only possible because the natural return from the land is interfered with, and because the superior land is not thoroughly cultivated. If it were so cultivated it would, as we have seen, yield no rent. The usual description of an English rent is that it is the means of equalising the produce of varying qualities of soil. If my view be right, all land left to itself and to its cultivators in the ordinary course would yield the same produce, and it is therefore naturally equalised. An actual rent is only obtained by introducing inequalities into the yield of the land, and then correcting these inequalities by appropriating the surplus to the use of one class. The English economists have thus mistaken the effect for the cause. Because the payment of rent results in an unequal return to capital and labour, they infer that the unequal return occurs necessarily in all production, and that it produces the rent.

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The following are the heads of a Paper on 'Inhabited House Duty,' read by Mr. DAVID MCLAREN :—There is a growing tendency to depend more and more on direct taxation. It would seem extremely difficult to impose a new indirect duty. Object of present paper is to inquire into one form of direct tax alone —the House Duty.

History of House Duty.—Presently levied at 9*d.* and 6*d.* a pound of rental down to 20*l.* on different classes of houses, has much to recommend it.

Statistics.—Duty produced in Britain (Ireland being exempt) in 1878-79, 1,605,577*l.* Of the entire number of houses inhabited, 18·93 per cent. were charged; of the entire rental, 62·04 per cent.; average rate was 6·9*d.* per pound. Like statistics for Scotland, viz., of number of houses, there were 10·01 per cent., and of rental, 44·21 per cent. charged; average rate, 8·58*d.* per pound. These the figures for 1876-77.

Elements of Expansion of House Duty.—1. Area—(*a*) Extension of limit to the limit of poor-rate, the landlord being charged on low rentals, with a discount for trouble of collection, or extension to 10*l.* rental. In the former case the number of houses charged would be increased fourfold, the chargeable rental 61 per cent.; in the latter 111 per cent. and 28 per cent. respectively. Different results in different places. Question as to the reliability of present statistics, especially in England. Present system of parish surveyor condemned; recommendation of system of Government surveyor. (*b*) Extension to Ireland; no reason for exemption.

2. System of Rating.—At present many houses in agricultural districts escape from valuation under the limit of 20*l.* High-class houses are valued too low.

3. Increase of the Duty per Pound.—Unfair that the payers of income-tax alone should be liable from time to time to have the rate of duty increased.

Impossible to calculate what amount of increased revenue might be expected.

Considerations in favour of resort being had to extension of House Duty if increased revenue is required.

1. The large class of occupiers under 20*l.* would be brought in to pay their fair share of taxation. Possibility of such exempting themselves from almost all taxation if income returned under 150*l.* Improbability of reaching these by increased duty on alcoholics.

2. An increase of rate of income-tax without any increase on House Duty would aggravate present injustice.

3. The great bulk of electors belong to this class. They

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impose the taxes and should pay them. Taxation should coincide with representation. If the county franchise be lowered, this consideration greatly enhanced.

4. Extension of House Duty to all electors, to be raised and lowered as required, would give them a direct interest in economical government.

Mr. D. W. Henderson, Leith, contributed a Paper on 'The Progress of the United Kingdom under Free Trade in its connection with Commerce, and the Condition of the Working Classes,' of which the following is an abstract:—Since the adoption of 'Free Trade' as the commercial policy of the country, in the year 1848, the application of its principles, in the freedom accorded to all interested in trade and manufactures to buy in the cheapest and sell in the dearest markets of the world, has led to an amount of national prosperity and enterprise never at any time attained within the existence of the Corn Laws and the Protective Tariff which grew up under that system of fiscal regulation. Perfect freedom of trade, introduced thirty-two years ago, has done more to benefit commerce and manufactures in almost all its departments, and more also to benefit the nation and its population socially, in the liberal supplies of food and other articles, than any other means ever before adopted by the Legislature of this country. Whatever checks have arisen to interfere with the progress and prosperity of trade, or the happiness and comfort of the people, within the period named, have been partial and comparatively transient. No great or lengthened depression has continued to exist, and no severe or protracted distress has, either from want of work or want of food within that time, ever, in the same degree as formerly, afflicted the labouring population of this country. No doubt periods of distress to some portion of the industrious classes have from time to time occurred, but those have always been more limited in extent, and shorter in duration.

Whatever objection some parties may have to 'Free Trade,' it seems to be undeniable that the population of this country have of late years been supplied with abundance of food, and at such prices as enabled them to purchase whatever was required. 'The greatest good of the greatest number' must ever be the guiding rule of good government, and it is undeniable that under freedom of trade the great bulk of the population—most of all, the working classes of the United Kingdom—have benefited both as to the quantity, quality, and cheapness of food supplied to them, in all its many varieties. Com-

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pare the present position of the sober, industrious working-man with what it was thirty years ago. Leaving it to himself as judge, he will not say that 'the former days were better than these.' With all the drawbacks incident to his position, he is a better paid man; and with good health, sober habits, and an active, industrious partner, he should also be a very happy and independent man within his own family circle. Besides, with care and sagacity, he may be the means of elevating his family and securing them a place in the class above them. Circumstances will not always favour this; nevertheless, his children's chances are two to one better than they were thirty years ago, and even if they do not gain a higher position in society, at least they may be as happy, and may, with easier circumstances, also gain the respect and approbation of their fellow-men. For personal and family happiness is not always incident to high position—'Uneasy lies the head that wears a crown.'

The extraordinary increase in the importations of wheat into the United Kingdom since the year 1848 is of itself sufficient proof of the necessity for and justification of the repeal of the Corn Laws, and the establishment of Free Trade as the permanent policy of this country; a policy urgently needed, because only under perfect freedom of intercourse with other nations could sufficient supplies be obtained to meet the requirements of our rapidly increasing population, and at the same time remove, 'as by a stroke,' the deep-rooted source of dissatisfaction and agitation which more or less had existed for many years because of this interference with the natural supplies of the food of the people.

In 1848 the import of wheat stood at 2,580,959 qrs., and of flour at 1,754,449 cwts., equal to 389,878 qrs.; together 2,970,837 qrs. In 1859 wheat showed an import of 3,850,744 qrs., and flour of 3,328,324 cwts., equal to 739,627 qrs.; together 4,590,371 qrs., or an increase of 1,619,534 qrs.

In 1869 wheat had increased to 8,376,901 qrs., and flour to 5,401,555 cwts., equal to 1,200,344 qrs.; showing an increase over 1848 of 6,606,408 qrs. While in 1879 the import of wheat was the largest on record, and amounted to 13,242,622 qrs., with an import of flour of 10,728,252 cwts., equal to 2,384,056 qrs.; also the largest ever reported; together, 15,626,678 qrs.—showing an increase since 1848 of 12,655,841 qrs., equal to 4¼-fold. In all other articles of grain, &c., the increase is also very large, and though not in the same proportion as wheat and flour, it gives evidence of the benefit these large supplies must have been to this country, especially in years of deficient harvests.

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In 1848 the import of all other kinds of grain, viz., barley, oats, peas, beans, rye, and maize, only amounted to 4,364,533 qrs., with 275,788 cwts. of flour (not wheaten), together equal to 4,447,269 qrs.; whereas now the total import is equal to 16,413,627 qrs., showing an increase equal to 11,966,358 qrs.—nearly threefold over the import of 1848. The largest import of barley was during 1872, when 3,761,641 qrs. were brought into this country from abroad. In that year the largest quantity came from France, about 1,545,767 qrs. In 1878 the import was also large, amounting to 3,539,229 qrs., and the largest quantity came from Russia—principally from the southern ports by way of the Black Sea; considerable quantities also came from Turkish provinces, the United States, &c. Of comparatively late years brewers have used a large portion of the finer class of light barleys, principally grown in Asia Minor, Southern Russia, Egypt, Algeria, and those warm and sunny climates where the quality and condition of the barley is so perfected, and brought to that high condition and fine colour suitable for the purposes of the brewer, especially in the making of pale ale. The import of foreign oats has also largely increased. In 1859 it had increased to 1,537,736 qrs.; in 1869 it had reached 2,836,623 qrs.; but last year, 1879, it attained large proportions, and stood at 4,390,554 qrs., which is the largest supply ever received in any one year, and is equal to threefold increase over the import of 1859. Peas and beans have not very largely increased in amount of yearly supply, but of all articles suitable either for animal or human food the increase in the yearly supply of maize is the most astonishing.

In 1859 the import amounted to 1,251,718 qrs., in 1869 to 3,925,357 qrs., but in 1878 it had reached 9,260,868 qrs., which was the largest quantity ever imported into Britain. Last year, 1879, the import was still large and stood at 8,032,972 qrs., which shows about 6½-fold increase over the import of 1859. The consumptive demand for Indian corn in this country, whether for purposes of human or animal food, or for distillation, has of late years become very great, and there can be little doubt that the import will go on increasing year by year, until it attains far larger proportions than it has at present. Meantime it is the leading article used by distillers, and in the demand for it for that purpose alone the increase must be great. For long it was difficult to convince the public of the virtues and comparative cheapness of this article, and the many uses to which it might economically be applied. The Irish Famine of 1846–47, and since that the

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Cotton Famine in Lancashire, were, under Providence, the means of directing attention to its merits. And now it has become one of the best and most profitable articles of food for stock raising or fattening, or for the feed of horses, and for other purposes. It has also become, in various shapes and forms, a favourite article of human food, and has even been elevated to a higher place, and raised to the dignity of the dinner table of the wealthy and the great. The introduction of this article, and the popular use of it, has led to an increasing demand, year by year, from this and other countries, until now (within the past six months) the weekly shipments from America to the Continent are reported as even exceeding those sent to the United Kingdom.

The shipment of foreign flour into this country of late years, but most of all within the past three years, since America, with its three bountiful wheat-crops and large manufacture of flour in the Western States, has opened its floodgates and poured its liberal supplies into the British market, has given considerable concern, and has sadly deranged the milling trade of the United Kingdom; and by enormous supplies, low prices, and excessive competition, rendered the manufacture of flour on this side a difficult, if not of late a somewhat profitless, business. All this has given much concern to those engaged in the trade; and many of the leading British and Irish millers visited the late great Millers' Exhibition and Congress in Cincinnati purposely to see and judge for themselves as to the position of the trade and manufacture in the United States and in Canada, and the system of milling there. The application of capital to the milling business, in the erection of great mills all over the States, on the American principle, worked by large water-power, but especially in the western States of Minnesota, Missouri, Iowa, &c.; the liberal supplies of the finest qualities of red winter and white wheat, and of hard red, as well as of ordinary spring wheat, at moderate prices there—the latter a consequence of three prolific harvests—convinces most of our millers that that was really the secret of the large supply and of the severe competition from that quarter. The manufacture of flour in America has become a leading business, and the quantity produced is greatly more than is required for home supply; so that the millers there have been compelled to look abroad for a market for their flour. The home-consumption requirements have to be supplied first, and the sales made in their own district are acknowledged to afford them the best profits; but they found it necessary to get quit of the surplus, and the British market

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has, therefore, been found to afford them the readiest means of quittance and the quickest return in money. The American millers have, therefore, sought to make good their hold here, and have, despite all difficulties, fought their way into public favour by sending flour of all sorts and qualities to the leading markets here, and either consigning it for sale at best possible prices, or otherwise by tempting merchants and flour-factors by low offers made either cost and freight, or free on board, at ports on the Eastern seaboard. It is well known that last year this trade, as a whole, did not pay the shippers at all well; on the contrary, it is asserted that large losses have been made in it. Nevertheless, American flour (now sent mostly in 140-lb. sacks) has already become a leading article in the British market. All kinds have come, but the great bulk has been of good, useful, and from fine to really choice quality, so as to rank with, and compete against, the finest Hungarian or other Continental flour. The market, however, became lately, to some extent, glutted at London, Liverpool, and Glasgow, with inferior qualities, many of which have been sold by auction at very low prices, some qualities bringing not more than 16*s.* 6*d.*, 17*s.*, and 18*s.* per 280 lbs. While our native millers have, no doubt, laid their account with a continuous competition with American flour, and perhaps with regular imports of that article in periods of large wheat harvests there, it seems evident to them that such excessive competition as to supplies and prices can only exist during such times; and when the tide turns, and Europe as well as Britain, instead of America, are blest with favourable seasons, large harvests, and liberal yields of wheat and other grains, then the turn will also come to the British and Continental miller.

The advantages derived by the country from the liberal tariff introduced by the late Sir Robert Peel have been great, and beyond all calculation beneficial to the population of the United Kingdom, in increasing the supplies, and, in most instances, cheapening the food of the people, as well as stimulating commerce and benefiting the provision trade. The immense increase in the quantity and value of provisions now consumed in this country is best shown by comparison of some articles such as butter; which in 1848 showed an import of 294,247 cwts.; in 1879 that had increased nearly sevenfold, and showed an import of 2,045,399 cwts. (representing a value of 10,379,451*l.*). Bacon and hams in 1848 showed an import of 219,033 cwts., against an import in 1879 of 4,917,631 cwts., an increase of nearly 22½-fold. Beef, 121,980 cwts. in 1848, as against 812,237 cwts. in 1879, or fully 6½-fold increase. Cheese,

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441,635 cwts., against 1,789,721 cwts. (representing a value of 3,824,017*l.*), or fully 4½-fold increase. Fish, 107,901 cwts., against 1,160,140 cwts., or nearly fifteen-fold increase. Eggs, 88,012,583 great hundreds, against 766,707,840 great hundreds (representing a value of 2,295,720*l.*), nearly ninefold increase. Tea, 4,774,755 lbs., against 184,076,472 lbs. (representing a value of 11,262,593*l.*), nearly thirty-nine-fold increase. Sugar —raw, refined, and candied, including molasses—7,614,222 cwts., against 21,514,436 cwts. (representing a value of 22,344,555*l.*), nearly threefold increase. These, taken as the principal articles of consumption in the provision trade, give evidence of the comfortable style of living amongst the great bulk of the population of this country; and it is, to some extent, an evidence of their gradual improvement, both in means and condition. Besides these, and the wheat and flour supplies, and many other articles, there is also the weekly supply of live-stock to take into account—cattle, sheep, etc. The total import of cattle, including calves, last year amounted in number to 247,768; and of sheep and lambs to 944,888. The prevalence of cattle-disease has to some extent kept down the importation from abroad, which, since 1876, has decreased to some limited extent. It would be interesting to trace many of the changes which have occurred in the manner and mode of living within the past half-century, of all classes in this country, and the consequent change in the demand for certain articles of food and different classes of goods; but, as in the Paper read in 1863 fuller statements were then made of the changes consequent on the introduction of the Free-trade policy, we will only now observe that but for the continued prevalence of cattle-disease the value of butcher's meat might, like other articles, have been more moderate, and at least lower than the present price of that article.

There were several other facts and questions referred to in this Paper, bearing on the social and commercial aspects of Free Trade, the principal being that of 'Reciprocity,' which was dealt with as altogether antagonistic to the system and unworthy to become the principle or the practice of this country.

The following is an abstract of a Paper on 'The Finance of National Insurance,' contributed by Mr. STEPHEN BOURNE, F.S.S.:[1]—The scheme for the prevention of pauperism propounded by the Rev. W. L. Blackley has, by the sup-

[1] This Paper, in full, forms the concluding chapter of *Trade, Population, and Food*, by Stephen Bourne, published by George Bell & Sons, York Street, Covent Garden, 1880.

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port it has received, become removed from the region of speculative theory to that of proposed practical application. It needs, therefore, an examination into its merits to determine whether its adoption should be promoted, or discarded as impracticable.

The plan proposed is to force every youth to contribute 10*l.* to a fund to be established with the Government guarantee, from which he may, when sick and unable to work, be provided with an allowance of 8*s.* per week, before reaching seventy years of age, and then a pension of 4*s.* per week until death.

Taking the census numbers of 1871 it appears that in each year 256,920 persons would have to pay 10*l.* each; and making a calculation based upon the experience of Friendly Societies (as set forth in a lengthy table), it appears that for many years the sick allowances would swallow up the interest accruing from the investment of the money so paid; that before all the contributors have reached the age of seventy some half the capital, in addition, would have been expended; and that to provide pensions, as proposed, for those passing seventy would require twice or three times the amount of the money left—the fund thus becoming bankrupt. Supposing the fund to continue fifty years—till all the male population of England and Wales had paid—the annual charge on it would then be some 6,400,000*l.*; or, if Scotland and Ireland were included, and one half the women—who, as wage-earners, could not be left out—over 13,000,000*l.* would be required. If, as subsequently suggested, the whole population, female as well as male, were included in the operation, the charges upon the fund—taking into consideration the greater tenacity of female life and its incidents of maternity—could not be estimated at less than 20,000,000*l.* per annum. This would render it necessary to take more than 10*l.* from each contributor, or to improve the capital at four per cent. interest or more, instead of at three.

Mr. Blackley assumes that, though rich and poor pay alike, so many would not claim the allowances as to leave enough for all who did; but it is shown that the calculations are based upon healthy lives only, whereas the sickly and feeble would, to prevent themselves ever becoming paupers, need no compulsion to join the fund, more than compensating therefore for those who made no claim. Also, that no system of inspection could effectually guard against deception; and thus there is no reason to anticipate that the claims would fall short of the calculated amount.

Neither is there any reason to suppose that higher interest

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than that of Consols could be obtained; rather that the absorption of so much stock would drive the price up so high as to enable the Chancellor of the Exchequer to force the acceptance of lower interest than three per cent.

It is essential that the fund should be managed by Government, and that, to provide for all the claims upon it, it must ultimately reach an accumulation of from 300 to 500 millions, thus absorbing a half or more of the National Debt; even supposing population not to increase, although at the present rate in fifty years it would be doubled or trebled. Thus a grave difficulty would arise in providing investment for so large a sum; from which it is probable that the interest accumulated would be so low as to render a payment of 10*l.* from each contributor insufficient.

Two fallacies appear to underlie the expectations upon which this scheme of National Insurance is based, viz., first, an undue reliance upon the power for accumulation of compound interest, forgetful that the sick allowances would swallow up the interest as it accrued. Secondly, forgetfulness that money has no power of increase apart from judicious employment in conjunction with labour. This latter thought opens up the wide questions of the expediency of thus divorcing capital from the labour which alone can cause it to fructify, and whether this country has not gone too far in the direction of tying up so much money in settlements, loans, and employments unconnected with its owners; dividing the nation into two classes, debtors and creditors—producers and non-producers—to a degree which may, perhaps, soon prove fatal to its continued prosperity.

It is scarcely consistent with sound economical principles to make contracts of such magnitude binding on our successors in future years. When money is lent by the State for public improvements it is repaid in thirty years; in this case the individual engagements would last for twice that period. The object in view being to prevent pauperism, no termination of the contract can be permitted until life expires. Nor is there any security that this object may not be frustrated by changes in the value of money. On these and other grounds, the financial aspect of the scheme is scarcely such as to commend it to the sober sense of statesmen.

Neither are its features more attractive to the individuals whom it is proposed to subject to compulsion. Its disadvantages would fall on the thrifty, to whom the money, in conjunction with the physical or mental power they have to employ, should be worth more than the 2½ or 3 per cent. interest at which

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the State would take it—and in the case of emigration it would be lost to them. Being less exposed to the risk of having to claim a sick allowance than the dissolute, the frugal would have not only to pay more than their fair average, but would also draw less than their share. Thus the reckless and improvident, to whom the grant would be an inducement to magnify ailments and feign incapacity, would both increase the average of subscription and absorb the greater share of its produce. Yet it is doubtful whether the security afforded to the unworthy class against the consequences of their own misconduct would not induce a greater sacrifice of time and health than the actual receipts from the fund would counterbalance.

It is with no desire to find fault with a plan suggestive of so much good that this criticism has been undertaken. The evils it proposes to remove are so deep-seated, and so detrimental to our national prosperity, that any mode of satisfactorily dealing with them would be hailed with joy by philanthropists and statesmen of every class or party. Neither is there any reason to regret that it has received so large a share of public attention, for it may stimulate many to voluntary efforts for their own provision, to be taught the channels through which they may be made, and the value of early economy for the purpose of judicious investment. It may encourage a spirit of self-reliance, and go far to determine the course of life to many, by showing them the money-value of small savings, and the ease with which those who have the will may likewise find the way to secure themselves against the worst trials of incapacity for labour when sick, or entire dependence upon others in old age. The author of the project has done good service by evoking discussion, and is to be applauded for his earnest effort to carry it into practice, although he may have failed to demonstrate its financial soundness, or that it is otherwise capable of being adopted. Yet if the figures now produced are correct, and the reasoning based upon them be sound, it will be a national evil to waste further time or exhaust further philanthropic effort in endeavouring to procure legislative sanction for a measure which, when viewed in all its bearings and traced through all its probable results, must be financially unsatisfactory, alike for the thriftless, the thrifty, and the State.

In a discussion which followed the reading of the above Paper, the Rev. W. L. Blackley replied at length, pointing out that Mr. Bourne's calculations were made, not merely at a lower rate of interest than might reasonably be expected, but in evident misapprehension of the fact that though all classes should be contributors, wage-earners only would draw money from the insurance fund. With-

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out estimating the exact amount (for the calculation of which, of course, no data at present exist) of this relief to the fund, Mr. Blackley showed that, even on Mr. Bourne's own bases, an interest very much below 4 per cent. on an investment of 10*l.*, or a sum very much less than 15*l.* on an investment at 3 per cent. would secure the desired fund, and then proceeded to show that the real rate obtainable as investment interest on such a property as the National Fund would be, is plainly higher than the price of a fluctuating and constantly transferable investment such as Consols. He showed also that even Consols return a higher rate than 3 per cent.; that the average bank rate of discount, though sometimes down to 1 per cent., had averaged 3½ during the last ten years; that 700 millions find investment in railways at 4 per cent. at least; that, as he showed by official returns, the life assurance companies of the nation are able now to invest a premium fund of no less than 75 millions at 4½ per cent., and that England, as Mr. Giffen shows, manages to invest every year an amount of new capital reaching some 240 millions, at certainly a higher rate than Consols. He argued the absurdity of supposing that a national fund could not safely find an investment annually for a sum so relatively microscopic as 3 millions, for money which would for the most part have many years to lie without necessary displacement. He therefore considered he had shown fair reason to believe that such a fund as he proposed could be invested, not even at 4 per cent, which all the Railway and Land Mortgage money in England commands, but at 3½, which would abundantly suffice. He concluded by given a categorical reply to Mr. Bourne's strictures on the supposed moral disadvantage of the scheme.

Mr. John Standfield, C.E., London, in a Paper on 'The Effect of Patents on Science, Capital, and Labour,' showed that these are the three things which most required protection. He pointed out that one does not need to travel much to see that labour cannot properly prosper without capital; neither can capital be profitably employed without science. Looking at what invention has done for us during the last fifty years in improving and cheapening all manufactured commodities, light, fuel, and all necessary articles of consumption, and also our means of communication, it is evidently to our interest to afford inventors all the unfettered scope we possibly can, so that we may have our trade and income increased, and our expenditure diminished. The author went on to show that we have legislated so badly with regard to the development of science that the value of both capital and labour has been kept considerably below what it would otherwise have been. Everyone readily admits that the prosperity of a nation depends upon its scientific progress—using these words in a wide sense to embrace all discoveries and improvements in our numerous and varied industries. It

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is evident that scientific progress, in its turn, depends upon invention, and that the inventions of a nation are practically dependent upon its patent law. This is, perhaps, more particularly the case in this country than in any other. Mr. Standfield showed clearly what may be called the 'strangling' effect of our present heavy stamp duties on patents by comparing the results of the cheap American system with those of our own. It appears that a patent is granted in the United States for seventeen years, after careful examination by experts, for the small sum of 7*l.*, whereas a patent here is burdened with the heavy stamp duties of 175*l.*, and is not subjected to any examination, so that many inventions are in this country invalidly re-patented. This enormous difference in expense handicaps the British inventor 25 to 1 in favour of the American; so that, taking the average of the last ten years, there were 13,356 patents granted in the United States against 3,030 in this country, and that, for any given number of the population, for one patent granted here there are three granted in the United States, notwithstanding the fact that we are essentially a manufacturing nation, and they are chiefly agricultural. Mr. Standfield consequently proposed that our stamp duties should be so reduced that a patent in this country could be obtained as cheaply as in America. His proposal is to charge a stamp duty of 2*l.* on application for a patent, and a further duty of 3*l.* when the patent is granted, and an annual stamp duty of 1*l.*, 2*l.*, or even 3*l.*, so that the Patent Office may be more than self-supporting. He also proposes that patents should last twenty-one years, including provisional protection for one year.

The author proceeded to show that by allowing practical science to freely aid us, unburdened by the present exceptionally heavy taxation, our exports would be greatly increased, and the value of capital and labour would undergo a proportional rise, to the benefit of the nation. Special attention was drawn to the fact that while the stamp duties on patents here are the most oppressive in the world, those of the United States are the lightest, and yet the American Patent Commissioner proposes to reduce them, as being unjustly high.

What the author wished to impress upon his hearers was, that if we once put our inventors upon a fair footing with those of other nations we shall regain our supremacy as the leading industrial nation, and shall retain that position without having to meet unequal competition, as we now do. We cannot continue to suppress and banish a large portion of our constructive science without at the same time injuring our capital and labour to

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a serious extent. Our trade is being driven away by ourselves, and is not being fairly won from us. By oppressing science we diminish our prosperity, but by encouraging and protecting it we increase our wealth and power.

The Rev. JAMES A. JOHNSTON, Glasgow, read a Paper on 'Local Option in relation to the Traffic in Intoxicating Drinks.' The question, How best to deal with the drink traffic? demands the attention of the country and Parliament. No party—publicans, public, Parliament—is satisfied with the existing licence law. Many suggestions have been made for its amendment, and among these proposed alterations local option holds a prominent place. This proposal has been brought within the sphere of practical politics by recent Parliamentary debates and votes, and especially by the statement on the subject by the Prime Minister. Local option, variously understood, may be defined as the legal power now possessed by the licensing courts given to the ratepayers of a particular district—the power to increase, lessen, or wholly suppress houses licensed for the common sale of intoxicating drinks. Local option was first suggested by Charles Burton, in 1855, in his article in the *North British Review*. In 1857, at a ministerial conference in Manchester, Samuel Pope, in the name of the United Kingdom Alliance, proposed the form of local option afterwards formulated in the Permissive Bill. In 1859 a form of local option was suggested in Scotland, and made public under the name of the Popular Veto. This Scotch proposal, unlike the English one, did not include the manufacture of the drink, and gave the power to put down *any* as well as *all* the retail licences. An attempt was made to get this Scotch veto into the Scotch Amendment Act of 1862, but was defeated by a vote of twenty-one for and thirty-nine against. A somewhat similar form of local option was brought before Parliament in 1867, in what is generally known as the 'Liverpool Licensing Bill.' In 1869 the Convocation of Canterbury gave a formal recommendation of local option, and this recommendation, only slightly modified, was moved by Sir Wilfrid Lawson, and in last session of Parliament was carried by a majority of twenty-six votes.

Any measure embodying local option should observe three conditions. Present legal restrictions on the traffic should be maintained in their full integrity; the vote should have reference solely to the continuance or removal of the common sale of drink; and the ratepayers should have full power to suppress all licences, lessen their number, or increase them, subject to

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some such veto as is at present possessed by the licensing or confirming committees.

There are only three forms of local option specially worthy of consideration. These are: First, the Permissive Bill. This measure is, perhaps, too far advanced for the state of public opinion. In the opinion of many it contains too much of the principle of *prohibition*, and too little of the principle of *option*, to give reasonable hope of its soon becoming law, and so, meantime, may be set aside on grounds wholly apart from its own merits or demerits.

The second form of local option is the direct vote. Different areas and forms of the direct vote have been proposed. These, however, are matters of detail. Its advantages are that, as the present licensing courts would remain until set aside by the vote of the ratepayers, little new machinery would be required, and so little expense would be incurred. It could easily be made constitutional, simple, and effective. The objections to it are that it is not the usual method of conducting the country's business; that there would be a danger of misunderstandings between the ratepayers and the licensing courts; and that it might give occasion to much local agitation and excitement.

The third form of local option is the local elected board. This form seems the best, and most likely to be adopted. The board would be elected by the ratepayers; it would deal only with the drink traffic, and would have power to suppress all the licences, suppress a portion of them, or grant new licences; but in the latter case the licence would be subject to a veto on the part of the magistrates, or existing confirmation committees. Boards so elected and with such powers would reflect the exact sentiment of the ratepayers, and if the latter wished to get rid of the whole traffic would be quite able to carry out their wishes. This plan has already received considerable public approval, and forms the leading feature in the bills introduced to the House of Commons by Mr. Joseph Cowen, of Newcastle, and Mr. Harrison, late member for the Kilmarnock Burghs. The proposal is quite constitutional, thoroughly equitable, and eminently practical.

In support of local option it may be said (1) the present system has failed. On the licensing courts has been laid the weighty responsibility of so limiting the inherently dangerous traffic as to make it safe to the community. The task was not an easy one, and it has not been accomplished. In not a few cases no serious effort has been made to discharge the duty. Publicans, landlords, factors, and other interested parties have

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brought all possible influences to bear upon the licensing courts, and these have too frequently forgotten that they had to consider not what would promote some private interest, but what would be conducive to the public good. Hence in parts of the country, but especially in our large towns, the number of licensed houses is admittedly far too large. (2) The ratepayers possess the best right to the legal power of local option, and they are best qualified for its judicious exercise. Landowners possess and exercise the right of keeping public-houses off their property. Licensing magistrates refuse licences to places near their own residences. Now, on what principle of equity can a similar power be refused to a majority of the people in any district, whether of town or country? A licence lessens the value of the adjoining property; and why should the neighbouring proprietors and tenants not have the legal power to protect their pecuniary interests, as well as the peace, purity, and comfort of their own homes? The publicans are fond of representing themselves as the servants of the public, and surely the public, the masters, might be permitted legally to say whether they wish such service rendered. The ratepayers are the best judges of their own wishes and wants; many of them are equal in social position, education, and character to the licensing magistrates; they know the men who carry on the traffic, and they see the traffic daily at their own doors, and so are by far the best qualified parties to judge whether licences should be granted or not. (3) Serious evils have sprung up around the present licensing system, which would be removed by the election of local boards. The present system demoralises the police, and this not only in the lower grades of the force. It has given origin to a large amount of favouritism, it being found, as might have been expected, that licences have been granted pretty freely to relatives and friends of the licensing magistrates. It has brought into existence a great amount of private canvassing, and this conducted not always on principles which would bear the light of day. Then the practice of introducing professional advocates into the licensing courts is another evil which must be laid at the door of the present system. And for all these evils, and some others, there seems no more simple and effective remedy than to give entire control over the drink traffic to boards elected by, and responsible to, the ratepayers of the locality.

If those engaged in the traffic object to local option, the objection only shows that in their opinion the traffic would not be permitted to continue if subject to the legal control of those most interested, and best able to judge of its character

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and results, and for whose special benefit the traffic is said to exist.

The question of compensation is a simple one, so far as justice and equity are concerned. No compensation is given under the present system; the licence is not a right but a privilege; the privilege is granted, and the price paid, only for one year; renewal of the privilege may be, and oft-times is, refused. If the business is not remunerative, there is no loss to be compensated; if profitable, it is so by the grant of a legal privilege denied to others, and so no compensation is due, at least to the publicans.

A Paper on 'The use of Stimulants in the Manchester Workhouses' was contributed by the Rev. S. Alfred Steinthal. It is a very old belief in England that it is not possible to live a healthy life without beer, which, as many an old signboard shows, is, with bread, considered to be the staff of life. Theoretically and practically, this belief has been attacked for a considerable number of years by teetotalers, but of late men totally unconnected with the temperance movement have seen reason to take up the idea of the total abstainers, and science has confirmed the opinion that persons in health do not need any stimulus, while some very eminent medical men are acting on the principle that even in disease alcoholic preparations are very rarely required. It cannot fail to be of service in aiding those interested in this subject to see the results of practical experiments made on large numbers, and on that account I wish to lay before the section a few facts drawn from the experience of the Manchester Board of Guardians.

Till the year 1875 all pauper inmates who were employed as assistants to nurses, cooks and bakers, or in the dispensaries and mortuaries, had a pint of beer daily allowed to them. There were two houses under the charge of the guardians, one at New Bridge Street, and one at Crumpsall, and in the two houses there were 218 paupers of the class referred to receiving beer as an extra, the quantity issued being about 116 gallons per week.

The guardians were, after very careful consideration of the subject, obliged to come to the conclusion that amongst the recipients of this allowance were some who were quite content to remain in the house as paupers as long as the beer and sundry other dietary privileges, such as dry tea and sugar, were allowed them, and were settling down into confirmed pauperism. The work was not very heavy, though in some cases, such as attending on the epileptic and imbecile cases, it

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was of an unpleasant kind, and the allowances induced them to look upon the workhouse as a home rather than a temporary refuge. There was evidence also to show that, to use a workhouse phrase, 'trucking' went on among the recipients, and cases of drunkenness occurred from time to time in the house as a natural result.

These considerations, and the question of cost also, induced the Visiting Committee in 1874 to decide that all allowance of beer for work done by pauper inmates should cease from January 1875, and that tea and coffee should be given instead; the committee of the Bridge Street house thinking it right that when inmates were put to do more useful work, requiring some care and thoughtfulness, some extra ration should be allowed in order that some stimulus should be given to good behaviour.

The effect of the experiment was most satisfactory. Several men and women who were habitués of the house, and who had resisted all the efforts of the guardians and relieving officers to induce them to strive to be self-supporting, left the house in disgust; but persons were immediately found willing to take their places, without having recourse to the appointment of paid officials. The cases of drunkenness in the house ceased, quarrelling among inmates greatly diminished, and good order was more easily maintained. It is important to note that the health of the inmates in no way suffered.

The good results at Bridge Street encouraged the Visiting Committee at the Crumpsall Workhouse to adopt a similar resolution; but no substitute for beer was offered them, and yet no difficulty was found in making the change, while a similar good result was attained. This was so patent that, two years later, at the approach of Christmas, the proposal was carried to alter the time-honoured custom of giving beer to all the inmates with their Christmas Day dinner, and to substitute tea and coffee. Of course this change was not carried without some opposition. But the fact was remembered that every Christmas Day brought cases of drunkenness, as those who were most fond of beer were able to obtain more than their allowance by bartering it for something else. The experiment was tried on Christmas Day 1876, and the dinner passed off most satisfactorily, with a pleasantness never known before. The inmates were all well satisfied, no disorder of any kind occurred, and the officers had a comfortable day, while not one single complaint of the behaviour of an inmate was entered for the consideration of the Visiting Committee, while in previous years the committee meeting after Christmas

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Day had always been occupied for a considerable time in investigating charges of unruly and quarrelsome conduct.

The guardians were so convinced of the usefulness of the change and of its advantage that, since then, beer has never formed an item of the annual Christmas dinner.

The good effect of discontinuing beer as an allowance to helpers, and at the Christmas dinner, caused the medical officers to look rather more closely to the use of stimulants in the Workhouse Hospital. Of course, in the Infirmary, the supply of wine, beer, and spirits is under the entire control of the medical officers. These gentlemen no doubt prescribed them with the same care as other drugs in the first instance, but unless their attention was especially called to the matter the prescription of stimulants was allowed to run on in a way that would not have been allowed with ordinary medicines. Medicines are prescribed by weight and measure, compounded in the dispensaries, and given out to the nurses in bottles of ordered capacity, and when the quantity prescribed has been used no further amount is given without the further prescription of the medical man; but stimulants were ordered at a stated daily rate, and were thus liable to go on indefinitely.

The cost of stimulants for the workhouse hospitals was:—

	£	s.	d.
In the year ending March, 1876 . . .	458	15	1
" " 1877 . . .	332	16	4
" " 1878 . . .	230	9	11
" " 1879 . . .	265	2	1
" " 1880 . . .	204	13	4

I have not the total number of sick for each of these years, but in the year ending March 1877 the average was 1,079; and in the year ending March 1880, 1,251; so that the decrease of cost of stimulants has been made with an increase in the average number of patients.

I do not wish to go into the medical results of the change which has been made, as, in order to arrive at any satisfactory conclusions, it would be needful to go into details for which I have not the materials, if I had the time which would be needful to classify and arrange them. But I can broadly state that no evil results have been perceived by the medical officers; and while during the three years preceding the change the deaths were at the rate of one in twelve of the total number of inmates, during the subsequent three years it has been one in thirteen and a half.

I am not able to say whether the results of the experiment in the Manchester Workhouse Hospital have at all influenced

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the practice of the Manchester Royal Infirmary, but I think it may be interesting to note the decrease in the use of stimulants in that institution.

		£	s.	d.
The No. of in-patients during the year 1878-9 was 3,546	cost of wine and spirits	353	19	11
	„ ale and beer .	265	14	4
		£619	14	3
The No. of in-patients during the year 1879-80 was 3,562	cost of wine and spirits	144	3	11
	„ ale and porter .	141	11	3
		£285	15	2

A reduction with a slightly increased number of patients of no less than 333*l.* 18*s.* 1*d.*

In the Convalescent Home the No. of patients during 1878-9 was 1,317	cost of wine and spirits	33	9	4
	„ beer and ale .	123	13	0
		£157	2	4
In the Convalescent Home the No. of patients during 1879-80 was 1,410 . . .	cost of wine and spirits	16	12	6
	„ beer and ale .	92	17	6
		£109	10	0

Or, with an increased number of patients, a decrease of 47*l.* 12*s.* 4*d.*

In the workhouse the allowance of beer and porter to officers in the house still continues, as they are the usual accompaniments at meals at all workhouses where rations are supplied, but several of the officers, by their own desire, receive milk in lieu of beer or porter.

In the infirmary at Crumpsall, one of the largest institutions of the kind in the kingdom (on September 8, 1880, it contained 925 patients and 394 epileptics and imbeciles), the whole of the nursing arrangements are under the management of a lady superintendent of nurses. Many persons come to be trained for hospital and private nursing. The period of training takes three years, and during this time they receive no allowance of stimulants, proving that all the work of tending the sick, dressing wounds, and all the details which are involved in such duties, can be done without the use of intoxicating liquors.

I do not wish to do more than lay these facts before the Section. If the example set by so important a board of guardians as that of Manchester were to be followed by other

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boards, there would not only be a great saving to the rate-payers, but, in addition, a valuable moral influence would be created by the beneficial results arising from the discontinuance of the use of stimulants becoming known to the community at large.

Mr. JOHN CALDERWOOD, F.R.S.E., in a Paper on 'The Scotch Mineral Oil Industry,' gave a brief sketch of the history of the industry, beginning with its origin in Mr. Young's discovery, in 1850, of the method of obtaining paraffin oil containing paraffin from cannel coal, in such quantity as to make its manufacture commercially successful. The thirty years since Mr. Young's patent was taken out were viewed in three periods: the first, from 1850 to 1864, during which Mr. Young's patent was in force; the second, from 1864 to 1872, when the Scotch oil-fever raged, and many small crude oil works appeared, and rapidly succumbed before petroleum competition on the one hand, and the increased cost of shale and coal on the other; and the third period, from 1872 onwards, when the trade, now chiefly in the hands of large companies, began, and has continued to carry on a vigorous struggle to maintain its position in the face of tremendous opposition from cheap petroleum. In 1871 there were fifty-one mineral oil works in Scotland, the larger number of which were, however, comparatively small establishments, producing crude oil alone. There are now eighteen firms carrying on the business; but, notwithstanding the great reduction in the number of the works, the following statistics show that no falling off has taken place in the quantity of shale distilled, and that the more valuable products—viz., paraffin, mineral lubricating oil, and sulphate of ammonia—have been largely increased:—

	1871.	1880.
Shale used	800,000 tons.	850,000 tons.
Crude oil produced .	25,000,000 gals.	29,000,000 gals.
Naphtha and burning oil	11,250,000 „	11,400,000 „
Lubricating oil . . .	2,500,000 „	5,000,000 „
Paraffin scales . . .	5,800 tons.	9,200 tons.
Sulphate of ammonia .	2,350 „	4,750 „

The material used by Mr. Young originally at the parent work, at Bathgate, was the well-known Boghead or Torbanehill coal, which yielded 120 to 130 gallons of crude oil per ton. Shale began to be used in 1862; and the materials now employed are the bituminous shales of the calciferous sandstone series of the carboniferous formation, and the 'coaly shales' and 'wild parrots,' occurring in the coal measures and car-

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boniferous limestone series. Of the shale, &c., raised at present, fully 85 per cent. is obtained in the counties of Mid and West Lothian from the calciferous sandstone series. The capital embarked in the trade is estimated at 1,300,000*l.*; the men employed number about 5,400, of whom 2,200 are engaged in connection with mining operations, and the remainder (3,200) are employed in the oil works. The total wages, &c., paid annually amount to about 326,000*l.* The fuel consumed annually is estimated to be 350,000 tons. The refrigerating machines employed in cooling the heavy oil, so as to crystallise the paraffin and admit of its separation from the former, are capable of producing 30,000 tons of ice per annum, if used for that purpose. The value of the various products to the public was considered, and it was pointed out that instead of the miserable light given by tallow candles or train-oil lamps, which were the only sources of artificial light in rural districts before the advent of paraffin oil, one can now enjoy, at the cost of 1*d.*, light equivalent to that given forth by twenty sperm candles for five hours, the retail price of paraffin oil being taken at 1*s.* per gallon. London gas, selling at 3*s.* 3*d.* per 1,000 cubic feet, will, when consumed with the best form of burner, give light of the same intensity for four hours; but, with the burner in general use, results far inferior to this are obtained. Attention was called to the important characteristic of mineral lubricating oil—viz., that, even when diffused through cotton waste, &c., it does not absorb oxygen, and that it is, therefore, free from all liability to spontaneous combustion, or to become cloggy. The importance of paraffin as a candle-making material, and to matchmakers, was adverted to; and the great addition to the production of the valuable manure, sulphate of ammonia, was likewise noticed. It was urged, in conclusion, that the importance of the mineral oil industry may be seen from what it had done in the way of utilising mineral deposits formerly unused; in opening up a new field for the employment of capital and labour; in supplying to the public, at a remarkably low price, illuminating and lubricating materials possessed of special properties, to which no bodies formerly used could lay claim; and, finally, in greatly increasing the supply of one of the most valuable manures. Satisfaction was expressed that the connection between the beginning of the industry in Derbyshire and Scotland, and its development in America, was now fully recognised, as appeared from Mr. I. Lawrence Smith's Report of the Judges of Group III. of the Centennial Exhibition, at Philadelphia, in 1876. The Paper was illustrated by a map,

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showing the position of the oil-works in Mid and West Lothian, and by a stratigraphical section of the oil-bearing shales in Scotland, prepared by Mr. Lumsden, M.E., of Addiewell.

The following are the heads of a Paper on the 'Indian Opium Revenue,' read by Mr. DAVID M'LAREN. Indian affairs, especially finance, arrest much attention. There was one branch of revenue, familiar to the public ear, but little understood—viz., the Opium Revenue. The object of the Paper was to present a brief survey of this revenue, and of objections brought against it. For 1878–79 the total Indian revenue was 48,752,566*l.*, of which opium yielded 7,700,761*l.*

It must be understood at the outset that the opium of this revenue is not that prepared for medicine, but expressly for vicious indulgence by the Chinese. Opium revenue is divided into two branches, those of Bengal and Bombay. The former is a profit from a strict Government monopoly; the latter a transit duty on the produce of Native States passing through British territory on its way to shipment.

The features of the Bengal monopoly are entire prohibition of poppy growth and possession of opium throughout India; licences granted to growers; advances made to them by Government; delivery of the entire produce to Government at their own price; Government manufacture, preparation, and packing, with view to export to China; sale by auction. The cost to Government per chest is 40*l.*, of which 35*l.* goes to the cultivator. The sale price is 117*l.* to 133*l.*

Bombay transit duty on native, generally called Malwa opium began in 1835 at 125 rs., or 12*l.* 10*s.*, per chest; raised after annexation of Scinde to 200 rs., and now 700 rs. per chest, or 70*l.*; the collection being unparalleled in cheapness—say, .01 per cent., or a farthing per pound. Of the 7,700,671*l.* in all, Bengal yielded 5,309,467*l.*, and Bombay 2,291,204*l.*

Objections to this revenue—mainly that it is essentially immoral in its character. The writer was aware it had been held that considerations of morals must be shut out from all such questions. But he presumed there were few at the Congress holding that view. This objection was specially charged against the Bengal branch, inasmuch as it is profit from a Government manufacture with a view to vicious indulgence. That it is a vicious indulgence was proved by Mr. Marjoribanks, representing East India Company at Canton; the Directors of the East India Company; and in the Report of Special Committee of House of Commons. The author then examined the allegation, that it is not worse than spirit-drinking, adducing

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the testimony of Sir Thomas Wade, Ambassador to China, that opium smoking is many times more pernicious. If the revenue were condemned on such a ground, the question would not be affected by the fact that the injury is caused to foreigners. Proposing to substitute an export duty for Government monopoly, the writer then touched on the difficulties in the way.

The history of relations with China, he said, suggested a twofold objection. First the moral one. The legalisation of opium import into China was extorted at the cannon's mouth, and after much bloodshed. Adducing the testimony of British Ambassador that only fear of another invasion prevents Chinese again prohibiting import, the question in morals arises: 'Is Britain justified in forcing any article, especially such an article, on a weak nation for sake of revenue?' Second, precariousness of revenue, being dependent upon policy and legislation of a foreign Power; testimony of Mr. Gladstone to this effect; exposed to growing competition of Chinese growth, and of Persian and Turkish import; precariousness of this revenue for other reasons long recognised.

Further objections based on effects on Indian subjects were then reviewed. First of these, demoralisation of population; avowed indifference of Indian Government to this result alleged in evidence by Sir Cecil Beadon, proved by history of administration of British Burmah; poppy and opium successfully prohibited there under native rule; British Government introduced their opium for sake of revenue; growing consumption and consequent great demoralisation. Memorial of inhabitants praying for change of policy; official paper in corroboration.

Besides cardinal moral objections, others are adduced. A Government monopoly contrary to principles on which our whole commercial policy now based; deprivation to the cultivator of the natural price of product; undue pressure put upon cultivators to grow poppy; small profits derived as compared with other articles; tendency of poppy cultivation to intensify the calamity of famine. More than half a million of acres occupied with poppy in British India, and as much more in Native States; this acreage the richest ground, almost always irrigated, and hence available for food in years of drought. This objection is much strengthened by the want of communication, necessitating each district growing its own food. Mr. Wilson, in Budget speech, urged importance of a higher price to cultivator for poppy to enable it to 'maintain its ground against wheat, rice, potatoes, and sugar.' An acre of richest ground, the best for raising food crops, produces less than 9 lbs. of opium.

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Allowing what weight may be due to these objections, main consideration is the moral question involved—viz., The revenue is derived from an article manufactured by Government for vicious indulgence; this revenue is dependent upon armed compulsion exercised on a weak Government, but one ruling nearly one-third of the human race. Is such a revenue defensible?

The question of a substitute was not entered on; the object of the Paper being to lead up to that question. The plea of necessity denied to an individual cannot avail for the State.

At the close of a discussion which followed the reading of this Paper, a Resolution was passed in these terms:—

That it be a recommendation to the Council to consider the propriety of petitioning Parliament to adopt means for raising the Indian revenue without encouraging the production and consumption of opium.

Mr. Edward J. Watherston, London, contributed a Paper[1] which was an exhaustive argument in favour of 'Free Trade in Silver,' based upon a comprehensive review of the fluctuations in the relative values of silver and gold, from the earliest times in all parts of the world, with special reference to the present depreciation of silver in India. From a number of historical facts the conclusion was deduced that the fluctuations in the respective values of gold and silver were constant in the Middle Ages, while at the same time revolving around the figures of 10 to 1. For centuries there seemed to have been an inherent belief that, the two metals having been adopted as mediums of exchange and standards of treasure, one should be considered ten times as valuable as the other. It would have been for the benefit of commerce had this 10 to 1 standard taken firm possession of the public mind. But these old-world notions were overthrown by the conquest of South America, and the vast imports of silver which followed. Sir Isaac Newton, by world-wide inquiries, arrived at the value of 15 to 1, recommending that it should be fixed for coinage operations. He set a high value upon a silver currency, and for a century afterwards silver was the legal standard money of the realm. In 1816, gold was suddenly substituted for it, in the efforts made to obtain relief from the financial pressure of the Napoleonic wars. The effect of this piece of legislation, in which England stood alone, was to deprive us of a medium of exchange of over a hundred millions sterling. From a common sense point of view such legislation now seemed insane. A Persian proverb said, 'You may hate inanimate things as you hate men.' A foreigner might conclude that we hated silver, for, of all the metals, that alone was taxed in England, subject

[1] This Paper has been printed in full by the Author.

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to restrictions in manufacture, to supervision, and to what might be called espionage. It was unaccountable why silver should be taxed any more than gold, copper, iron, tin, or other metals, and why it should be 'hall-marked,' and thus disfigured and depreciated. If the object were security as to fineness and value, why should not the principle be applied to distinguish wool from shoddy, silk from cotton and scientific loading, pure gold from mixtures of it with other metals, or sound rails and girders from those that were defective. But these suggestions showed the absurdity of taxing silver, depreciating its value, and crippling trade. The hall-marking legislation was identified in principle and object with that of 1816, and our commercial and financial history from that time showed that it was unwise to depreciate the value of silver. No nation followed our example, but the value of silver necessarily fell. We had the largest stock; it could find no employment for currency purposes; manufacture was hampered by a 33 per cent. tax and trade restrictions; and the metal, intrinsically as precious as gold, flowed naturally abroad—to India, China, Japan, and Europe. Twenty years saw it at 16 to 1. Germany received the French war indemnity in gold; and the relative values were then 17½ to 1, the world's stock of silver being as yet unaffected by the silver mines of the United States. The natural effect was the disturbance of our exchanges with India, which had only a silver standard.

There was a Committee of the House of Commons whose report was less conclusive than some of the evidence, particularly that of the late Mr. Bagehot, who said 'Silver is the normal currency of the world, because it is a much cheaper metal, and is suited to those small transactions which constitute the bulk of the dealings of mankind.' The Committee's report left it an open question whether a taxation of 1*s.* 6*d.* an ounce, irrespective of hall-marking, interfered with manufacture, but it added the instructive statement that the great consumption of silver plate in the United Kingdom is among the higher, but in Germany and in France it is among the lower classes. From this it might be inferred that the tax and hall-marking are maintained so that it may be the privilege of the rich to be born with silver spoons in their mouths, just as in Germany silver spoons are the dowries of the daughters of the peasantry. We gave gold an artificial value by setting it up as the principal medium of national and international exchange. Until we demonetised silver all civilised nations gave such artificial value to gold and silver, and there was good reason for this, because there was not enough gold to serve the purposes of commerce.

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Its growth demanded an increase of circulating currency; but we diminished it, and upset the accounts of our dealings with three-fourths of the world's population. It would have to be decided whether silver was to be still further pressed down in value. Silver has been demonetised by Great Britain, Australasia, Canada, and the Cape. The other colonies and India retain silver as the sole legal currency. Nominally there is a gold standard in the Argentine Republic, Brazil, Portugal, and Turkey, but they have little or no metallic money of their own, and foreign coins are in circulation. In Portugal, which established the gold standard in 1854, home-coined gold has disappeared, and the principal currency consists of French silver 5*fcs.* and small silver tokens. In Brazil gold is never, silver rarely, seen, and the chief currency is depreciated paper. The same may be said of the Argentine Republic, Persia, and Russia; so that everywhere abroad an imposed gold standard with demonetisation of silver has been a failure. And at home it has been the cause of immense distress and the decline of trade. As Mr. Ernest Seyd remarked, the abnormal depression of trade was due to the contraction of the currency by human law. While we adopt gold other nations either keep to the double standard, existing from the most ancient times, or have the silver standard alone. Germany, after the French war, coined as much silver as gold; but it was found that the silver was not required, and it was stopped in 1873, while the coining of gold was continued. The ultimate decision of Germany may be influenced by the Latin Monetary League, consisting of the Governments of France, Belgium, Italy, Switzerland, and Greece, for the unification of currency. If it should declare for a double standard we must follow suit; if it adopt gold, silver must fall still lower in value. The effect would fall chiefly upon ourselves as the largest holders of silver. Depreciation and gradual extinction involve calamity to British commerce. In addition, as carriers for the world, we should lose a business represented by an import of 243,000,000*l.* and an export of 234,000,000*l.* in silver in twenty-two years. It is not a case of over-production, but of under-consumption. America consumed yearly 8,000,000*l.* worth, while we retained 800,000*l.* worth. Thus America, leaving the silver trade free, developed artistic manufacture, and gained the prizes that were once awarded to England. Our remedy was in the repeal of obstructive laws. The Mint should coin silver as freely as gold, and manufactures in silver should be as free as those in copper. In short, there should be free trade in silver.

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A Paper on 'Railway Accidents' was read by Mr. D. MILNE HOME, Milne-Graden, of which the following is a full abstract:—The author of the Paper stated that he had been induced to bring this subject before the Congress in consequence of the great number of accidents which had occurred in Great Britain during the last two months; one of the worst of which, viz., the wreckage of the London Express from Edinburgh, had occurred not far from the author's place of residence.

For most of the information in his Paper, the author stated, he was indebted to a valuable Report by Royal Commissioners appointed in 1874; but who did not conclude their inquiries till 1877, when the Report was presented to Parliament. No action upon this Report had been taken by Government, which should be matter of surprise and regret.

To show the importance of the subject, the author referred, in the first place, to the numbers of persons killed and wounded in railway travelling, or employed on railway work, which he found (from the Commissioners' tables) to be, including railway servants, about 1,400 persons annually *killed*, and 5,000 *injured*.

The desirableness of rendering railway accidents less fatal and frequent had led to the appointment of several Royal Commissions and Parliamentary Committees since the year 1853; but the legislation which had followed on their Reports was very insignificant.

A new line of railway was not allowed to be opened till it had been inspected by an officer of the Board of Trade. If he reported that the works seemed to him complete, the railway was allowed to be opened for traffic. But there was no power on the part of the Board of Trade to have the railway inspected at any future period, to ascertain that it was kept in proper repair, and far less to require any repairs to be made, or any improved systems of working the line to be adopted. The only occasion on which, after a line was opened, another official inspection could take place was if an accident happened; but then the inspection was merely for the purpose of ascertaining the cause of the accident, not for the purpose of requiring the railway company to adopt measures to prevent a similar accident or any other occurring.

The Railway Committees and Royal Commissioners had in their Reports suggested the expediency of giving to the Board of Trade power to see that railways were kept in the same state of efficiency as when opened for traffic. But Parliament refused to give even this moderate amount of jurisdiction. The view taken by Parliament was that railway companies would

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for their own sakes adopt measures to prevent accidents, and consequent claims of compensation at the instance of passengers injured, or of the relatives of those killed.

This principle, that the self-interest of railway companies would be a sufficient safeguard to the public, the Royal Commissioners, in the Report lately laid before Parliament, have unanimously declared to be ineffectual. They show, from the returns furnished by the companies themselves, that the yearly number of accidents had been increasing; and, moreover, that, so far from it being the interest of railway companies to lay out money on measures of safety for working their line, it was cheaper, at all events for the large companies, to pay for accidents when they occurred.

This point the Commissioners made clear by showing the sums actually paid for compensation on a number of the leading lines, which amounted to only about a half per cent. on the receipts;—a sum so trifling, as not to affect the value of the company's shares on the Stock Exchange, or to lessen the dividends even to ordinary shareholders; whereas, were improved means of working the railway adopted, a much greater sum would have to be expended.

In confirmation of this alleged unwillingness of railway companies to incur the expense of adopting means of working their lines to ensure safe travelling, the author referred to the case of the North British Railway, which, in spite of eleven years' urgent applications by the Board of Trade, had not adopted the block system on its line between Portobello and Berwick-on-Tweed, a distance of fifty-seven miles, and on which portion of its line, the other day, one express train was wrecked, with the greatest risk of the second express, leaving Edinburgh only a quarter of an hour after, running into the wreck of the first.

He referred also to the case of the Midland Railway, where an accident occurred lately, causing loss of life, because of the want of sufficient brake power, as pointed out in Colonel Yolland's Report, though for nearly twenty years the necessity for such additional brake power had been pointed out by the Board of Trade.

He referred also to the practice of very many railway companies working the line with servants utterly incompetent by want of training, or rendered incompetent by keeping them too long at responsible work; in all which cases, no excuse whatever was offered by the railway companies, thus leaving it to be inferred that the saving of expense alone must be the reason.

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In these circumstances, the Royal Commissioners in their recent Report say that it is not enough for the safety of the public to rely on the award of juries in the civil courts of compensation for accidents. They suggest that railway officials should be brought within reach of the criminal law; and they refer to the Mining Acts, which make managers of mines liable to imprisonment when life is lost or bodily injury sustained by any acts done or not done for which these managers are responsible. At present, by the 5th and 6th Vict., cap. 35, which is applicable to railways, engine-drivers, guards, porters, and other railway servants, are liable to fine or imprisonment for acts of negligence. The Royal Commissioners suggest that this clause should be so extended in its application that no class of persons connected with railways should be exempted from the proposed enactment.

The author, in reference to this suggestion, pointed out that in Scotland no new statutory enactment was necessary to bring under criminal prosecution, any class of persons who had certain duties to discharge, and who neglected these duties to the effect of inflicting injury on others; and he mentioned three cases, tried in the Supreme Criminal Court of Scotland, where not only railway signalmen and guards had been tried on a charge of culpable homicide or manslaughter, but also station-masters and general railway managers.

He further observed that in Scotland the common law was sufficient to reach even railway directors, if it could be shown that an accident had occurred owing to the line being worked in an unsafe way, and which, though known to the directors, they had not been at the pains to remedy.

The Royal Commissioners, however, thought that, with the view of preventing accidents, it was not enough to trust to a remedy in either the civil or the criminal courts. As prevention is better than cure, they suggested that the Board of Trade should have power to order inspections of railways, from time to time, to see that they are safely worked; but they very properly would wish this official interference so limited as not to interfere with the administration by railway directors in matters of detail. They wish that power should be given only to require the adoption of certain well-known measures for working the line, such as the adoption of the Block and Interlocking System, where many passenger and especially express trains run;—the supplying of more brake power;—and the extension of stations and sidings where the accommodation is wholly inadequate, and a restriction of the speed of trains where the line is not in a condition for express trains.

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Moreover, the Royal Commissioners suggest what they call an '*appellate tribunal*,' so that, if railway companies consider unreasonable what they may be required to do by the Board of Trade, there may be means of redress.

With regard to the cases in which the Royal Commissioners would give power to the Board of Trade to interfere, the author expressed surprise that no power was proposed to be given to ascertain the competency of railway servants for the work entrusted to them, or to check the practice, now so prevalent both in England and in Scotland, of keeping railway servants so long continuously at work as to render it almost impossible for them to do that work correctly.

A number of cases came before the Commissioners of servants who had been employed for no less than twenty, and in one instance twenty-two, hours continuously, and where the men admitted they could hardly keep awake whilst doing their work. In one case, the man said he had proposed to the railway superintendent a limitation of his work to twelve hours, but the latter refused, saying he preferred giving more *wages* to less *hours*. When examined on this point by the Commissioners, he said they were sometimes scarce of hands, but admitted that the practice was objectionable.

The risks attending such protracted labour were clearly proved by a return of railway accidents in the Commissioners' Report, which showed that nearly two-thirds were due to the mistakes of servants.

Within these last three weeks, two accidents occurred, each attended with loss of life, and owing entirely to the failure of the signalman—and no wonder, for at one of the stations (near Paisley) no less than 140 trains pass during the twelve hours during which the signalman remains at work; and at the other station (near Vauxhall) 300 trains pass during the twelve hours. In each case the signalman confessed his mistake, pleading only as an excuse, that he lost his presence of mind, by having so manythings to attend to almost at the same instant.

Perhaps there was now some hope of reform in this matter, for a Railway Servants' Society had recently been formed, which is supported by servants from almost every English railway. At a meeting the other day, a resolution was unanimously passed, pledging the servants to try and bring about the following arrangement of work—viz., signalmen and pointsmen to work only eight hours continuously; enginemen, guards, and pointsmen nine or ten hours; goods and passenger stationmen ten to twelve hours; and six ordinary working days to constitute a week's work. These seem not unreasonable pro-

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posals; and it is hoped railway companies will agree to them, without requiring the Board of Trade to compel adoption.

There were precedents for justifying such protection of working-men when employed by companies.

The Factory and Mining Acts prohibit different classes of workers being kept at work beyond a certain number of hours continuously; and as at all railway stations a time-book is kept, showing the work done by each servant and the hours employed, a Government Inspector might be allowed to see this time-book, and obtain explanations from the railway superintendent; and if these explanations should not be satisfactory, a fine might be allowed to be imposed, but with right of appeal.

It appears that the Royal Commissioners sent a gentleman to the Continent to ascertain how foreign railways were managed. He reported that all railways in Belgium, France, Germany, Austria, and Switzerland are inspected, not only when first opened for traffic, but subsequently, whenever thought necessary; and that the number of accidents are much fewer than in this country. This he thought was owing to the smaller number of trains running on the lines, and the less speed at which they run. He explained also that the number of hours during which railway servants are kept at work is limited, viz., for signalling and shunting eight hours, and for engine-drivers and guards from twelve to eighteen hours. He further stated that the same rules of management prevailed for railways belonging to the State and to private companies.

The author added that the conditions under which station-masters were appointed were such as, in his opinion, to make accidents less frequent. He had learnt when last in Germany that station-masters were appointed on the express understanding that, if an accident occurred at their station, they were liable to dismissal, even though not personally culpable, they being held responsible for the servants, as the servants are selected by the station-master.

An interesting discussion, in which Mr. WATHERSTON, Mr. LOCHHEAD, Mr. MACFIE, Mr. D. CHADWICK, and the PRESIDENT took part, followed the reading of the above Paper, and a Resolution in these terms was adopted:—

'That the Council be recommended to print a full abstract of the Paper of Mr. MILNE HOME in the *Transactions* of the Association, and to draw the attention of Government to the importance of the subject, and to the recommendations of the Royal Commission of 1877 on Railway Accidents.'

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ART.

A SCHOOL OF DRAMATIC ART.

Ought there to be a School of Dramatic Art subsidised by Private Subscription or Endowment, or by the State? By Professor FLEEMING JENKIN, F.R.S.

THE results obtained at the Paris Conservatoire may seem to many decisive on the fundamental question as to whether acting can be taught in a school. In Paris there is a school of dramatic art, and this school is allowed to have rendered great services; therefore, some say, 'Let us in England copy the Conservatoire.' The one point open for discussion, they think, is 'how the funds are to be raised.' The Conservatoire stands in close relation to the great national theatres of France. The professional career of an actor in France is extremely unlike that of his English colleague, and it would be difficult to take one minor constituent part of the French system, such as the school, and adapt it to the wholly incongruous English system. Similar difficulties have been met with in other professions, as, for instance, in my own, for which, in France, a thoroughly systematic school training is provided, which training we in England neither give nor desire. I venture to state this boldly, since it represents, roughly at least, the conclusions arrived at by our Institution of Civil Engineers.

But it may be said 'No one doubts that our English engineers have at least equalled their foreign competitors, whereas in acting there seems to be a general impression that we are distanced by the French. Moreover, even in engineering, although we do not adopt the French system as a whole, we do take hints here and there, and gradually improve our engineers' education, while maintaining the system best suited to our national character.'

Perhaps the French stage is not as a whole so far superior

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to our own as some imagine, but this point is immaterial, for the real question before us is how to raise dramatic art, no matter what may be the level on which it actually stands; there remains then for consideration the problem: What parts of the French system can we advantageously copy, and how are the necessary funds to be raised. Before propounding any solution, it will be well to give a brief sketch of what the French system is.

In Paris a dramatic competitive examination, if I may so call it, is held in October of each year at the Conservatoire. The lists are open to all comers, although there is a nominal limit as to age, which, properly speaking, should not exceed 25. Children of 12 not only compete but, as in the two instances of Mlles. Reichemberg and Baretta, are sometimes successful. The age at which girls usually present themselves is from 13 to 15. The young men are older; their age is commonly from 16 to 18. About 150 candidates are expected annually. Each one acts, or recites, what he or she pleases, during five or six minutes.

The jury which decides the fate of the aspirants consists of about a dozen persons: 1st, the Director of the Conservatoire, usually a musician; 2nd, the Chef du Bureau des Théâtres, who is a government official; 3rd, four or five dramatic authors, such as M. Legouvé and M. Alexandre Dumas; 4th, the Director of the Théâtre Français and the four Professors of the Conservatoire; these have hitherto always been actors of the Théâtre Français. The jury selects some twenty or twenty-five young persons, who then become entitled to receive lessons gratuitously at the Conservatoire. The number selected depends on the number of vacancies. Each professor superintends a class of about twelve students, so that the total number studying at any one time is about fifty. The average time of study is two years. Out of the successful candidates each teacher selects one in turn. The pupil has no choice but to study under the master by whom he or she is chosen.

Lessons lasting two hours are given by each professor twice a week. The pupil is bound to attend his own professor, but has the privilege of attending all the classes. He receives personal instruction only from his own master. The instruction is practical and tentative. The pupil is told to study a certain scene. This scene he acts before his teacher and his class; the teacher comments; saying, this is good; that is bad; he says a phrase himself here and there; he explains the drift of the scene, the motives of the character, and the pupil does his best to follow the instructions given. Each student's

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turn comes about once in ten days. The different professors follow widely different systems. Some insist on absolute imitation, others leave great freedom to the student; some give fresh scenes for each lesson; some insist on continual repetition. The student also follows a course of literary lectures.

At the end of each half-year reports are drawn up by the professors as to each student, and fresh examinations are held. A certain number of students are dismissed. Some receive scholarships as a reward; these scholarships are ten or twelve in number, and are each worth 24*l.* per annum.

At the end of the year a student, whether in his first, second, or third year, may gain such a prize as entitles him to leave the Conservatoire. There are men's first and second prizes for tragedy and for comedy; also three accessits for the two styles of art; ten prizes in all. There are ten equal prizes which might be gained by women. The full number is never awarded in any one year, and indeed a first prize for tragedy is very rarely awarded. The elder Coquelin obtained a second prize for comedy at the end of his first year, and then left the Conservatoire. The competition for prizes is held in public. The jury is the same as that which admits the students, with the important exception that four persons are chosen by the Minister of Fine Arts, as substitutes for the four teachers. The students who leave the Conservatoire with distinction, even that of mere accessits, rarely fail to find immediate employment on the stage, usually in Paris. The two classical theatres —the Français and the Odéon, take possession of the most distinguished, giving them salaries which are never less than £120 at the Français, or £72 at the Odéon. Often more is given, but the student on entering the Conservatoire signs an undertaking to act at these rates if required, in either of these two theatres. The salary of a professor at the Conservatoire is somewhat less than £100 per annum. We might without much difficulty create a school in London, which, so far as the mere skeleton of a system is concerned, would resemble the Conservatoire; but it seems to the writer that to begin to teach when there is no recognised standard of excellence, no recognised body of examiners, no recognised and normal career for the successful student, is to begin at the wrong end. All these things are provided by the French National Theatres, and yet it seems hopeless in this country to endeavour to create a successful imitation of the Théâtre Français. It has, however, occurred to the writer that by following strictly British precedents, a body might be at once created in Great Britain, which, while not a National Theatre, might nevertheless

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possess many of the attributes of the Société de la Comédie Française, with some others of no small value which even that body does not possess.

That singular association forms the acknowledged head of the dramatic profession in France. Now, in all professions it is desirable that there should exist some acknowledged head, some person or some body of persons who possess authority, whether by law or custom. Most professions in England have such a head. The Royal Academy performs the required functions for those who follow painting and sculpture; the Royal Society for men of science; civil engineers, architects, mechanical engineers, solicitors, and many other branches and twigs of professions possess institutions with presidents and councils, who administer important bye-laws, and promote in all ways the interests of their respective professions. These associations benefit their members in many ways. In the *first* place, they are able to confer distinction. To be President of the Royal Academy or of the Royal Society is to attain a position of honour second to few; to be a simple Fellow or Academician is a very laudable object of ambition; moreover, by many institutions honorary rewards, such as medals or more substantial prizes, are from time to time awarded. Each honour, great or small, is granted by persons who, being familiar with their own practice and with their fellow-labourers, are certainly fit judges and are usually impartial. The council of each institution forms a body of associated critics watching the younger members of the profession. The criticism is of the most wholesome kind, being disinterested, unpublished, and for each individual subject to the examination of a considerable number of his peers.

In the *second* place these institutions serve as teaching bodies, some more and some less; some by direct means, and others indirectly. In their periodic meetings views are exchanged and discussions held on all subjects relating to the profession, and this alone constitutes a school of the highest importance, even when no professors are appointed and no classes held. Verbal discussion is far more favourable to the rapid propagation or destruction of an idea than the distribution of printed matter. This is, indeed, our own justification for being here as a Congress. We are an educational body, where all are pupils and all teachers.

Thirdly.—The professional institutes are recognised by the outside public as corporations which represent the respective professions. They are thus enabled in a great variety of ways to protect and advance the interests of the profession

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and of the individual members. For instance, they receive and administer bequests, and sometimes grants of money made by the Crown. They can press for modifications in the law affecting their members. They possess libraries, appoint teachers, grant scholarships, collect information and public journals.

It would be easy to enumerate many other ways in which these great professional institutions benefit their members and the whole country, but surely enough has been said to make all present ask whether there is any reason why dramatic art should not have its Royal Academy or Society, with statutes borrowed in part from those of the Royal Academy of Fine Arts, in part from those of the Royal Society, and in part from those of such bodies as the Institution of Civil Engineers.

This, then, is my proposal—that a Royal Dramatic Society should be constituted, not primarily as a school, but as a body representing the profession. I am unaware how far this proposal may be a new one; but I feel convinced that, new or old, it is worthy of the support of this meeting. It would be impossible now to discuss with advantage the details of the proposal, but if the idea meets with favour, a committee might be formed with general instructions to promote the establishment of a Royal Dramatic Society.

The first duty of such a committee would be to ascertain whether the leading members of the profession would give their support to the scheme; next, with their assistance, to prepare draft statutes; next, to obtain distinguished patronage—and looking to the interest displayed in the drama in the highest quarters, it does not seem impossible that the first president or honorary president might be of the very highest distinction. Then, by charter, the Royal Dramatic Society would become an entity.

The words 'Royal Dramatic Society' hardly convey an idea of sufficient distinctness to allow the proposal to be discussed. The author has, therefore, ventured to write out drafts for some of the bye-laws. It is not for a moment supposed that these can be settled by any one individual; they must ultimately be drawn up by a committee of professional men, with the aid of lawyers; but even such rough drafts as will now be read will serve to show definitely the nature of the proposal, and to bring into relief many questions which must be answered before the Royal Dramatic Society can come into existence.

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DRAFT.

1st.—*Object of the Society.*—The object of the society is to promote the interests of Dramatic Art.

2nd.—*Membership.*—The society shall consist of Fellows, Associates, and Honorary Fellows; these shall be the corporate members of the society. The society shall have attached to it Graduates who are not entitled to the privileges of corporate members. The number of the Fellows shall be limited to ; the number of Honorary Fellows shall be limited to ; the number of Associates and Graduates shall be unlimited.

3rd.—*Qualification for Membership.*—The following classes of persons shall be eligible as *Associates* of the Society.

1.—Actors and Actresses who have obtained substantial success in the higher branches of their profession.

2.—Dramatic authors whose pieces have been represented.

3.—Musical composers whose works have been represented on the stage.

Note by the Author.—It would probably be quite impossible to draw up any code by which the higher branches of dramatic art could be separated from the lower branches. Undoubtedly ventriloquists and supers in pantomimes ought not to be eligible, but unless the society is to become a mere clique it should find recruits in all walks which can be followed in the spirit of real art—verbal barriers would be weak and invidious. A good mode of election will be a sufficient guarantee against the influx of worthless members.—To resume the draft rules.

4.—*Honorary Fellows.*—As honorary fellows are eligible all persons who by the interest they have shown in the stage and by their position are able to promote the interests of the society.

5.—*Graduates.*—As graduates are eligible all persons who follow the higher branches of dramatic art as a profession.

6.—*Officers.*—The officers of the institution shall be an honorary president; a president, two vice-presidents, and ten other members of council, being fourteen persons, who shall constitute the council to direct and manage the concerns of the society, also two auditors of accounts, a treasurer and a secretary; such officers shall be appointed or elected annually in manner herewith directed.

7.—*Election of Associates.*—Any person desirous of

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being elected as an associate must be proposed and recommended according to form A (appended), in which the qualifications of the candidate shall be distinctly specified. This form must be signed by at least six corporate members, of whom three shall be fellows, certifying a personal knowledge of the candidate and a full conviction of his or her qualifications. The proposal so made being delivered to the secretary, shall be submitted to the council, who shall approve or reject the proposal. The proposal, if approved, shall be advertised in such journals as the council may direct. One month at least shall elapse between the first advertisement of the proposal and the ballot. Ballots for election of associates shall take place twice a year. Only corporate members present shall have the right of voting. The proportion of votes for deciding the election of any candidate shall be at least four-fifths of those voting.

8.—*Election of Fellows*—In the month of in each year a list shall be prepared by the council, of such associates, of at least one year's standing, as in their opinion are most worthy to be elected fellows of the society. The number of names in this list shall not exceed the number of vacancies. The proposed list shall be sent to the address of each fellow of the society, at least one month before the annual general meeting of the society. A ballot for the election of fellows shall be held at the general annual meeting. At this ballot fellows of the society are alone entitled to vote. Each fellow may erase any name or names from the balloting list, and may substitute the name or names of any other person or persons eligible for election.

9.—*Election of President and Council.*—The president, two vice-presidents, and ten other members of the council shall be elected annually. On the same date as the proposed list of new fellows is issued to the fellows, a list of persons shall be nominated by the council as suitable to hold office for the ensuing year. This list shall contain the names of one president, two vice-presidents, and ten fellows nominated for the council. The ballot shall be held at the general annual meeting and immediately previous to the election of fellows. The election shall be by votes of the fellows present; each fellow may erase any name or names from the balloting list and substitute the name of any other person eligible for the office, but the number of names in each list must not exceed the number to be elected to the respective offices. Presidents shall not be eligible for re-election for more than five consecutive years.

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10.—*Election of Graduates.*—Graduates shall be elected by the council at such meetings as they think fit to appoint.

11.—*Election of Honorary Fellows.*—Honorary fellows will be elected once a year by the council of the society.

Remarks by the Author.

The mode of election of the various classes of members has been entered into at some length, in order to indicate more clearly the kind of body which the author would propose to create. If these proposals were carried out, we might hope to see a popular body of associates, comprising a large majority of those who are fairly entitled to take rank as actors in the legitimate branches of the profession. The associates would form a much larger class than the associates of the Royal Academy, and would be less distinguished in their profession. This class would be more analogous to the associates of the institutes existing in various professions. To be an associate should, however, be a distinction, and the fellows, by retaining a power of expulsion, might acquire a valuable influence over their younger or less distinguished brethren. The number of fellows should be so small that to belong to this body should be a very marked honour, an honour comparable with that of forming part of the Société du Théâtre Français. Under the system of election suggested the power of conferring high distinctions would rest exclusively with the council and fellows. The associates would, however, retain a power of vetoing the admission of any person into their own body.

No rules have been drawn up as to payments. Probably it would be best that a single fixed payment should be made once for all by each fellow, associate, and graduate on his admission to the society. This payment would be small for the graduate, larger for the associate, and considerable for the fellow. The necessary expenses of the society would at first be very small. Rent for rooms, a salary for a secretary, and some funds to cover printing and correspondence, would make up the whole budget; but the society would soon be enriched by private beneficence, by legacies, by the proceeds of benefit performances, and possibly in the end by grants from the State. With extended means, its action would extend, but if once created, no matter how poorly endowed at first, it would prove a nucleus round which wealth would certainly accumulate, for its objects and functions receive the hearty sympathy of large, rich, and influential classes of the community.

Let us now consider what might be some of the *functions*

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of the society. In the first place there would be meetings which all classes of members, including graduates, would be entitled to attend. At these meetings papers would be read, after having been approved by the council. These papers would treat of all subjects interesting the profession. There would be papers of a purely æsthetic character, relating to literature, stage management, acting proper, scenic devices, and elocution; historical papers; scientific papers on acoustics, ventilation, and so forth; legal papers, concerning the rights of various contracting parties; papers advocating reforms and new proposals; papers making known foreign systems both of art and management. It would be the duty of the council to suggest subjects for papers of this kind, and to make arrangements to induce associates and fellows to contribute papers of a suitable character. When the funds allowed, these papers and the discussions would be published; all members and graduates would receive copies of the Proceedings. The papers and the discussions which would follow would have a very considerable educational effect. Moreover, the writer feels convinced that the discussions would be more amusing than those of any other society in the three kingdoms.

Secondly, it would be the duty of the society to promote the education of the younger members of the profession, and of those who decided to join the profession. This the council could do in the following ways:—

1st.—By inducing distinguished fellows to receive as pupils or apprentices a certain limited number of persons in consideration of fees, which might partly be paid by the society.

2nd.—By selecting a limited number of young persons as suited to receive education, wholly or partly at the expense of the society.

3rd.—By awarding honorary and substantial prizes to the competing pupils of the teachers appointed.

In these three matters the example of the Conservatoire might be closely followed.

The advantages which the society would possess over any purely educational establishment are these:—

A.—The body which would appoint the teachers, select the pupils and award the prizes, would have the very highest possible professional standing. It would moreover be a representative body chosen by the profession itself. It would be a body which must command the respect even of managers and critics. In a word, it would hold a place analogous in these respects to the Société de la Comédie Française, and in the author's opinion, no purely professorial staff could do this.

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B.—The body would be one capable of receiving and administering State grants, even if those were confessedly of a temporary and tentative kind. To found a Dramatic College appears to the author to require a capital or secured annual revenue, such as would ensure its permanence for some twenty or thirty years at least, and yet no prudent person will say that such a College would certainly command success. But the proposed society could be started to-morrow; it would be permanent and self-supporting; it might try a whole series of experiments in dramatic teaching, prosecuting those methods which promised success, abandoning those which were barren.

C.—The Society could receive bequests and gifts, the objects of which were defined in much more general terms than would be thought necessary if the specific application of the funds were to be at once determined. If funds were given to a college, the constitution of the college must be to some extent defined; if a chair is to be provided, the duties of the professor, his salary, the very mode of teaching must be defined; but the society would constitute a body so much entitled to confidence that money might be entrusted to it, simply on condition that the funds received be applied to further dramatic education. The Government itself might grant funds in these general terms, as it grants funds to the Royal Society.

D.—The writer is of opinion that the council of the society would induce its own members to co-operate in the work of education more easily than any college could secure teachers of similar standing. Besides this direct imitation of the Conservatoire, with such modifications as practice might suggest, the society might aid dramatic education in several minor ways; as by the institution of minor prizes for competition in provincial towns, and by grants in aid of teaching given in various institutions.

In one respect it could not follow in the footsteps of the Conservatoire; it would not certainly ensure a *debût* to those who gained its prizes; nevertheless, these prizes might be scholarships of substantial pecuniary value, accompanied by rational conditions as to work done, and besides this the chief prizes granted by such a body would almost certainly ensure a trial on the boards of some fair theatre. In a word, the fact that such a prize had been gained, would be a certificate of excellence and an advertisement.

The society, in addition to the two great services which it might render, 1st, to those already engaged in the profession, and 2nd, to those who propose to follow the career, would also form a body capable of managing benefit funds and charitable bequests; the society would possess or create a library or

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libraries. In time it would certainly acquire a portrait gallery. Is it too much to say that in time it would build a theatre of its own? Is it too bold to prophesy that the body of fellows would be irresistibly tempted from time to time to give representations in which none but fellows took any, even the smallest, part? May we not hope that success would lead to repetition, until what was at first an exception might become the rule? Thus from small beginnings a true National Theatre might grow up. The first steps are simple—they entail no great expense, no serious sacrifices or responsibility. Let the programme be well arranged and development in all directions is certain. Not only a school but a stage and a literature will be the result.

One more service must be suggested with diffidence. Perhaps by aid of committees the society might examine and report on unpublished plays which could not find a manager. The author is very sceptical as to the production of any considerable number of really good plays which never see the footlights, but part of the public thinks such plays exist. If a committee of leading actors reported favourably of a manuscript managers would certainly consider it with care. It would be easy to guard against an influx of worthless matter by requiring that each play to be examined should be communicated by a fellow, who should declare in writing that he had read the play, and thought it fit to be placed on the stage.

To resume; the ideas which the writer has endeavoured to explain are these: The direct and immediate creation of a dramatic college is unadvisable. The first step should be to foster the establishment of a Royal Dramatic Society. This society should be a popular body containing a majority of the profession. The fellows and council would in point of distinction as actors, of weight as critics, and of authority as teachers, act as a substitute for the Société de la Comédie Française. The society would, as one of its duties, create a system of instruction, competition, and rewards.

Funds for the support of the society would be obtained from the members, from the Government, and from private beneficence. The question which source should be looked to falls to the ground. The society suggested would have claims on all the sources named.

If the views of the writer meet with acceptance, even in part, he would suggest that a committee be named having for its object the promotion of a Royal Dramatic Society, and that this committee should have power to add to its number. The author would deprecate the discussion of the details of his

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scheme—these would necessarily be much modified in committee; the points which he hopes may be considered are whether the establishment of a Royal Dramatic Society be desirable or possible as a means of promoting dramatic instruction, and in any way benefiting Dramatic Art and Artists.

DISCUSSION.

Mr. P. H. Rathbone (Liverpool, Hon. Secretary of the Department) recognised the extremely practical way in which Professor Jenkin had met the difficulties which must arise in dealing with this question. He thoroughly agreed with him that the State could do very little, for many reasons which it was not worth while going into. He had the highest hopes of such a society as Professor Jenkin had sketched, and he thought it must be based on such societies as the Royal Academy. Then they had to meet the question of who were to be the first members; that was important, for it seemed to him that everything would depend on the first members of that association being right and proper persons. Directly they had the association started he quite agreed that those only who were professionally connected with the stage should have a finger in the pie, but till then it was necessary that the members should be nominated from outside. They knew the great difficulty in starting new projects, of the wrong men coming forward, and of the best men being unwilling to make themselves prominent. It was invidious for the profession to make such a selection, but all that would be removed if they placed the duty upon outsiders. The question, therefore, arises, upon whom should it devolve? He thought on some of those who had taken a great non-professional interest in the drama. Some of the highest in the land had done this, and would no doubt be prepared to make the first list of members. Coming now to the details of Professor Jenkin's proposal, he thought his idea of a Royal Charter was an exceedingly happy one; but he thought the Royal Charter should name the first members. The first members being so named, there would be no objection to their naming the associates; but he hoped that from the beginning they would establish classes, and so begin their educational work. Professor Jenkin, in speaking of the classes from whom the members should be drawn, had omitted one very important body, and that was the class of managers who were not actors. Of course the managers of the present day were to a considerable extent actors also, and there were many great disadvantages in having a manager who was also an actor. They would never have a good all-round company till they had among them as manager a man who was precluded from appearing on the stage. That, of course, was the great distinction between the proposed institution and such a one as the Royal Academy. Again, he thought they should endeavour to bring about a closer connection between the actor and the painter. In Germany the greatest mutual benefits had resulted from the actor and the painter working together in questions of

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grouping, to the great advantage of both professions. If there were any present who had seen the Passion Play at Ober-Ammergau, they would agree with him that the effects of the grouping in that piece were very remarkable, the result of being superintended by competent painters. He did not know whether there would be room in this organisation for painters; he did not mean that they should become members, but that they should work together. And the point on which he had a strong opinion was that the provincial theatres should be used as a preliminary school for actors and actresses. When they recollected how many great actors had come from the Theatre Royal in that city, and how many accomplished actors and actresses had been spoiled by coming out in London, and by being thrust into parts before they were fit for them, they would admit the great value of the provinces as a preliminary school. The London manager was a very different personage from the country manager; indeed, the latter as he had been hitherto understood was fast disappearing. He hoped that in any organisation of the kind that had been sketched out the provinces would have a proper share of representation, and that their voice should be recognised as a part of the general body, and indeed as an important part. He only hoped that the subject would not be allowed to drop. They all knew the interest which Manchester and other large towns had taken in the matter of dramatic reform. Movements of this kind often made more headway in places like Manchester and Liverpool, where there was more time to think of them, than in the hurry and bustle of Metropolitan life.

Mr. Robert Herdman, R.S.A. (Edinburgh), said the object which Professor Jenkin had at heart was not easy to carry out, but he should nevertheless like to see an effort made to further it. In Scotland they were rather in the Polar regions at present so far as dramatic art was concerned, but that was no reason why they should not attempt to give some stimulus to the general feeling in regard to it. It was an art which had proved an advantageous and effective power as a means of education and cultivation; but there was good reason for thinking that it was not just now doing all that it could or that it might do, and he thought the proposition of Professor Jenkin was one which was most likely to be very serviceable both in the education of its professors, and in the establishment of the profession on a more satisfactory and worthy basis in public estimation. Believing all this, he should certainly be glad if an endeavour were made at the present meeting that some initiatory action might be taken which would lead to a trial of the experiment. He would therefore move:—

That the Council be asked to appoint a committee to promote the establishment of a Royal Dramatic Society, if on inquiry they should consider this possible and desirable.

The Rev. William Vincent, M.A. (Postwick, Norwich), in seconding the motion, said that he thought it would be a great pity were any movement such as this to fall to the ground for want of being definitely taken up. He looked upon the stage as a very important element indeed in the education of the people, as well as in their recreation, and he thought it was a great pity that any country like

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ours should be in the position of not being able to recommend the stage as a means of intellectual enjoyment for all classes of the people. It seemed to him that a very great step would have been taken towards their being able to recommend it, and set it forward as an intellectual and moral educator, when it was put upon some more satisfactory basis than at present. Having seen the great difficulties that there were in any national recognition of the stage, he thought it was desirable that what seemed to him the most practicable way, suggested by Professor Jenkin, should have a trial.

Professor FLEEMING JENKIN briefly replied, remarking that he desired to express his hearty concurrence in what had been said by Mr. Rathbone. Indeed, what he had suggested was exactly what was in his own mind. As to the question of the admission of managers, he was not averse to it, but all the details would necessarily have to be settled elsewhere; and after a long discussion he approved the suggestion of a committee, and rejoiced that they had, so to speak, laid the first stone.

MASTER AND PUPILS.

How far would the Revival of the Old System of 'Master and Pupils' be of advantage, and tend to promote the Growth of Historical Art in the Country, and the Fitting Use of Painting and Sculpture in our Public Buildings? By HUBERT HERKOMER, A.R.A.

I WOULD ask permission to alter the terms of this question, and to state it thus:—*How far would the revival of the old system of master and pupils be of advantage in the present day, and tend to promote the growth of true art?*

This question is of such importance that I deem it best to give but slight attention to the other two themes embodied in the original proposition.

Before we can say how far the revival of the system of master and pupils would be of advantage, we must consider how far that system can claim to be *good, or advisable in itself.*

In those days, when a youth showed an unconquerable desire to be a painter, he was put under the care of a master, invariably a renowned one. The fact that it was not so easy a matter to be received by a master necessitated strong inclination and unmistakable signs of talent to be shown before such an undertaking was entertained.

The many difficulties, which I need not enlarge upon, made the number of art aspirants *reasonable,* whereas, owing principally to the many opportunities afforded for learning the rudiments of drawing, art students are, in our days, most *unreasonable* in number.

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Every artizan can now send a child, who shows a tendency to scribble on walls and furniture, to an art school, where he can at least ventilate this scribbling propensity, and where the art tuition is invariably equal to proving whether the child has sufficient talent to justify an attempt at a further education in art, with a view to making him a painter. And these schools are distributed all over England.

In former times art tuition was centred in a few towns and countries, and travelling was a matter too serious for the many; therefore, the number of students being limited, the system of teaching, as a natural consequence, was more personal.

We must now inquire how far this was of advantage, for we know that the system encouraged the student to work precisely as the master did, and almost encouraged him to think *with* the master on all subjects.

The imitative faculties of the mind awaken early, and are the first to be exercised; reason and invention follow. It is thus that all art-workers have built their earliest efforts upon what has gone before them. When they have reached the point where originality begins to assert itself they diverge into other channels, ripening, advancing, or varying the *existing art*, according to their *powers of originality*. It is certain that Titian would not have reached such perfection in his art if he had not had a Bellini or a Giorgione to study. Raphael was powerfully affected by the works of Leonardo da Vinci and Michael Angelo, but the latter had *no* influence save that of the antique and of nature.

This building up of one man's style upon the style of another, of commencing where another ended, is more truly applicable to science than to art. Art cannot be mathematically judged or regulated; science can. If Leonardo da Vinci, Titian, and Raphael have built their first arts upon the art of some foregoing painter, they certainly were not great from the fact of having been trained and influenced by their masters solely. History is replete with facts showing that these, and all great souls, had *to shake off*, and frequently with an effort, *the influences of their masters, before they could do one single touch of that work that has made them immortal.* This reflects seriously upon the system of tuition then in vogue and now under consideration.

To inquire into the cause, we must first bear in mind that originality and individuality of style—two characteristics that are the crowning points of a painter's art—awaken slowly; and *most* slowly when the student is placed under the personal tuition of one man, whose characteristics he endeavours

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to imitate; for he thereby *warps* the natural bent of his own mind, and this natural bent of mind is the originality in embryo.

Is it not dangerous to enslave these qualities of the mind at the outset of a student's art education? Left alone to form his taste from nature, *guided* only by all the great works that have preceded him, and to which he should have ready access, he would be influenced by those works that were most in harmony with his idiosyncrasy. In this way he would gain all his tuition by *deduction*, and he would apply what he had deduced from those works, in his own way to nature. I would call such a student a *natural pupil* of a master chosen naturally, be this master dead or alive, as long as his works live for the student. Whereas, to be placed under the influence and personal tuition of a painter, before the student can possibly know what his final taste may be, to be dragged into all the painter's methods of workmanship, ways of thought and almost of faith, is to be made an *artificial* pupil.

Taste arises from the stamp of mind, and cannot be '*raised*' by education; it can be modified or subdued, but when ripe will always manifest itself, unless stunted from want of timely exercise.

Let this so-called artificial pupil imitate the manner of his master's work in the most perfect and wondrous way, his efforts will be, with this quality alone apparent, comparatively *worthless* to the art world. This pupil learns to know another man before he has a chance of knowing himself. He will struggle hard to *see* things as the mind of his master perceives them, and waste years in trying to do what, eventually, he will be compelled to throw aside.

This will not teach the student confidence in himself. No; it is only the strong mind that can shake off these early influences, many phases of which adhere to him indelibly, even whilst he deplores the fact. One might say it was like learning to walk upon artificial legs, fitting only another man, with your own legs tied up in a cramped position—a position likely enough to cripple them for ever.

Two men may see *some* things in nature alike, but never *all* things; for it is the *mind* that really sees, the eye being only a mechanical conductor of the objects in nature to the brain, which is the mechanical operator, or machinery of the mind; therefore all objects must be received by the mind before they can be realised, and they will be interpreted according to the recipient's *general tenor of mind*. That is the cause of twenty men painting the same object in twenty

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different ways, and *no* alteration in this fact can be produced by education. But, owing to this mental arrangement, we do not get mere *nature* represented in art, but man's *interpretation and realisation of nature, which is at once a double reflection of nature and of man's mind.*

Unless the student is led at the very beginning of his education to expect the final appearance of this *independent* 'mind-seeing' and interpretation of nature, he will aim little higher than imitating, *not* Nature, but another man's interpretation of her. This individuality is the great *mystery and secret of the art-mind,* being as great a mystery to those possessing it as it is to those who long for it and see it only in others. It cannot be transmitted to others, and cannot be stolen, for the best *resemblance* to another man's originality of style is but an *imitation.* I believe that the innate quality of imitation, so strong at first in all art-minds, is more the cause of *plagiarism* in students (being so frequently ungovernable) than the actual and premeditated efforts of masters to encourage such disciplining or (better call it) imitation. It is a force of nature that has *formed* the state of things.

But in considering the proper course of tuition for a student entering his final and highest stage of *professed studentship* (for a painter is a true student all his life) we must consider, primarily, the mental qualities most essential to the successful practice of art; and secondarily which of these qualities appears *first* in the physical development of the mind, and which *last* in the process of mental development.

The highest being *originality and loftiness of invention* would appear *last.* Now, considering that the qualities which are active at very early stages are the *imitative,* and bearing in mind that the system of master and pupils exercises and encourages these qualities almost exclusively at first, it is not strange that those soul-given qualities, which are fixed for later development, should be lamentably impeded in their attempts to come to life.

The system retards the growth of those qualities that make the painter renowned; that is one great flaw, and before we consider its advantages I will point out another danger attached to the system—the danger of the pupil being put under the *wrong master*; that is, under one who is antagonistic in all his ideas and aims to the innate but closely hidden tastes of the student. He will struggle to do what another has done, and frequently fail, whereas he might at once find his own identity, if left alone to do things in his own way.

Let us take an example from our present English school,

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where all are masters and none pupils, a school that, even with an indifferent representation of its works, elicited the highest admiration from the whole world during the last Paris International Exhibition.

To follow up and illustrate the difficulty of finding the right master for the promising student, we will imagine the late Frederick Walker having been put under Maclise. Surely Walker, whose characteristic was to draw out the tenderest passages of nature, would have had the natural bent of his mind irritated and chafed; and coming at the commencement of this higher education in art, he would hardly have known *why* his master's style caused him such trouble or irritation. If persevered in, his mind might have been led *away* from its true bent, by hopeless endeavours to imitate what he saw before him in his *master's* manner. As it was, he was placed, with but little artificial tuition, under an engraver, and told to draw as much in the style of John Gilbert as possible. Then he had to draw on wood the sketches of Thackeray for his 'Philip'—awful drawings—and Walker sorely wanted to try some original illustrations, instead of working out Thackeray's caricatures. He timidly suggested it, tried it, and at once showed, *not* traces of having imitated John Gilbert, but the originality that was in his mind. His wood drawings were at once different from anything we had before, and the same feeling that he exhibited in his drawings he put into his first attempts at colour.

Having had such free scope for his originality, one could trace the constant training he underwent with each new subject; and though he was at first a little ignorant in the technique —which we are apt to praise so much in the French—yet his own mind supplied all deficiencies of early education, for he, first of all, knew *what* he wanted and aimed at, and then he persevered until he had reached his aim. And it was beautiful and striking to see how his identity—strong from the first —developed and ripened, until his early death left a blank never to be filled up.

Now, this highly nervous, sensitive man, who never showed his work whilst in progress, even to the models who sat for him, and who would have been the last man in the world to have pupils around him, actually but unconsciously *formed a school.* This school, commencing already with his wood drawings, was most strongly felt when his water-colour drawings were the *excitements* of a season.

His oil picture of the 'Bathers' was hailed as a prophecy. From the life and works of Fred Walker we can gather

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two lessons of importance that are applicable to our argument: the first is, that this painter would have done nothing greater (perhaps nothing so great) if he had been placed under a master; and the second is, that he would *not* have exercised a greater *influence* than he did by his *works alone*, if his studio had been full of pupils during his lifetime.

Citing another painter, I would suggest one who has been entirely lost through the perversion of master's influence and patronage in addition. This was the German, Kaulbach. He was a pupil of Cornelius. Cornelius tried to imitate Michael Angelo, and Kaulbach was led to copy Cornelius's imitation of Michael Angelo.

But Kaulbach had a keen sense of humanity and insight into life, that made him look with very loving eyes at the works of our Hogarth. This early admiration for Hogarth would have borne fruit, if encouraged, and would have made him a natural painter, instead of an allegorical draughtsman, and he would have left a great name behind that no reaction in general taste could have shaken; whereas, the change o art feeling is so great now in Munich that but few artists even mention his name. The cartoon representing a scene in a madhouse, most masterly in its treatment and grasp of expression, was done under the influence of Hogarth's genius. Then we have the inimitable Reinecke Fuch's illustrations, which he must have enjoyed doing with different feelings from the fulfilling of commissions from King Ludwig. This king made him throw away his palette and his love for nature as he saw it, and ordered him to draw cartoons of subjects as remote from *his nature* as they would have been from Fred Walker's. I can only wish that he were permitted to live his life over again, but this time in England, where we are not blessed with schools or masters of any importance, or that have any striking effect upon the art of the day.

I could bring many more illustrations to bear upon the argument of wrong selection of masters. Imagine Sir Frederick Leighton, with his innate love of fine classical lines and delicate beauty, having been placed as pupil to the French Meissonier! What a contrast! Or perhaps Pettie under Jérome. This is speaking figuratively, of course, no note being taken of comparative ages; it is for the art of the different men that I quote them, to show that such an ill-directed selection of master is bound to have a disastrous effect upon the young student whose art character is not developed, but is under lock and key at first. And I would have no hesitation in saying that such blunders have happened, and must happen frequently,

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under the system of master and pupils; for the master must be chosen before the student can possibly know his nature. It is a *danger far more serious* than having *no personal guidance*, only relying upon your ability, nature, and the great works of all artists. It is indisputable that the works of great men have always had a greater influence upon young painters than personal tuition has had. I would be inclined to say that the cleverness of drawing and so-called *learnedness* of French painters is as much due to the national character of the artists as to their school influences.

In England we have certainly no strong school influences, but we have what is nowhere in the world so strongly developed, and that is originality and individuality of style. On the whole, the selection of subjects is more truly elevating, human, and heart-stirring in England.

The French are as unhappy in their selection of subjects as they are *certain* of their drawing. It is their aim to strike, to startle, to fascinate. All is what the Germans call 'crass,' all is violent contrast. English art, however faulty it may be in precision of drawing, seems to take you by the hand and lead you to nature, and bid you *love it*—to humanity, and bid you *learn its lessons.*

This is a national characteristic, produced spontaneously *without* any *central impetus,* such as *might* accrue from the teachings of one man.

What more do we want? Do we want more learning? It is said that we have encouraged originality at the expense of learning. I think there is not a desire to strive for dexterous drawing of human limbs. But those who look for this 'learning' seem to be under an impression that it cannot be found in *realism,* that to show any learning you must paint the classic only. This is entirely erroneous, and is the cause of the word 'learning' being misunderstood.

Believe me, Millais' head of Gladstone was full of profound learning, and so was his hastily painted portrait of Mrs. Jopling. Learning comes with practice; originality *never* by practice, but it must be awakened by exercise. Obtaining learning simply means, in the ordinary sense, to draw endless studies from the life; and that, without design, is most deadening to the inventive faculties.

Certainly there is the danger of too early attempts at picture painting; but this is only dangerous to the weak, and that only in case their first efforts are successful, so as to cause them to get into one groove, and work only for money. On the other hand, it is a *significant fact,* that of those students who

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draw and paint such admirable studies from the life, and win gold medals, *very few* ever become eminent painters. I cannot impress this fact too strongly, for it plainly shows that something is wanting. Their mistake lies in simply doing what is placed before them, and in not being obliged to exercise originality, so as to make every *study* a *picture.*

We are attracted in an exhibition to any work that is stamped by originality. Why should not this be held up to the student as a thing to aim at? But a master either forces the student into imitation of, or similarity to, his art; for in most cases the master allows the student to work upon his paintings, and the styles must meet. The similarity of workmanship, forced in this way, will have a different effect upon the student, from a similarity caused by a free selection of master on the part of the student, when he once knows what he is made of.

It is as difficult, however, to define the difference between similarity and imitation as it is to find the exact point where borrowing ends and stealing begins. If the pupil is to be a reflection of the master, the master must be unapproachable in his greatness, and there must be but one kind of art, and that his. We have yet to see the work of art that will positively satisfy all intelligent minds, and we have yet to find the master capable of training students of every variety of mind.

There is, of course, a beautiful side to the question of master and pupils. It is the picturesque side. To teach willingly is to give to others the fruits of the study and labour of years in one moment. This giving has much love in it, and much tenderness. There is beauty in the giving, but we all know that youth does not and cannot take into consideration the fruits of more aged experience. Those who have themselves bought experience are ever ready to accept advice; not so with inexperienced youth. It is a divine arrangement in our composition that, despite warnings, despite proofs, despite reason itself, youth must be rash and must pursue the course of action dictated by its hot blood. What, indeed, would the third generation be like, if the second generation regarded only advice of the present age, avoiding all that we have so dearly paid for, leaving nothing unturned to save itself from all the ills and risks that we have suffered under? That third generation would be unfit for the struggles of life.

Where would art be now if pupils had in all times carried out all the directions of their masters?

Some sort of tuition or instruction is, of course, necessary; but its effect is only felt in the art of the time, when the highest grade of studentship is paid much attention to. Our question

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of master and pupils applies only to the pupil who can already draw with considerable correctness the living form.

In paying so much attention to tuition, we must not forget that all great men, whose works remain the greatest lessons to us, have become great *through some power within, and not through a personal influence from without.* Voltaire said of a great painter, '*He was the pupil of his own genius.*'

That defines precisely the mysterious power that lies in a great soul; it is the pivot upon which the whole mental machinery turns and is poised.

Good schools, with the best masters, might raise a higher level of art, but it is doubtful whether a higher *level* would produce more great men. No matter how high the art-level is, a great man stands out with decided strength, and is clearly and pointedly seen at once. If the system of master and pupils *was* an advantage—which is very doubtful—we certainly have in our days some advantages that were denied the old masters. We have not, for instance, to rely upon the patronage of one man of position, nor have we to wait for a wall on a public building before we can venture to work out some of our grand ideas.

Then have we not the same antique to study that Michael Angelo so closely studied to his end? And have we not even more great works to study than Titian had? This, with travelling made so rapid and easy, must be granted an immense advantage to students.

A word here upon the fitting use of sculpture in our public buildings, and that word need only be a repetition of Michael Angelo's conclusion, namely, that *architecture* should form the background of sculpture. Who can look, in modern times, at those unhappy gentlemen in bronze, holding out their hands, with hats off, exposed to rain, hail, and snow, without sympathy? This surely is not the fitting use of sculpture. Nor is painting fittingly employed when works of art are exposed to the unmerciful elements. I would be tempted to say that no great work should be a fixture. If Leonardo da Vinci's great fresco had been painted on canvas, to permit removing if necessary, we should have had it a *perfect* instead of a *mutilated* work in our day.

I now close this with a word of warning to art-patrons, and beg of them to *respect* an artist's independence in selection of subject, and not *make* him repeat one class of subject until he sinks under the weary repetition of the first successful idea that he happened to bring before the public. If a master's influence can enslave or warp the natural bent of a pupil's

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mind, so can the claims of a patron restrain a young painter's originality and shut it up in a single groove. Give freedom and encouragement to this great quality, give large opportunities for studying the best works of other men, and then, with the poetical subjects that abound in this lovely isle, the art of the country will go on *progressing* (for both the Scotch and English artists work hard), and the question of master and pupils will solve itself.

The Essence of Art: is it Genius or Ingenuity?

By EDWARD J. WATHERSTON.

THERE is, perhaps, in the whole vocabulary of our language no more vague and indistinct expression than that embodied in the word *art*. It is used to mean all and everything; in reality it means next to nothing. We speak of *artists* of every kind and degree; the fifth-rate actor claims to be an artist; so does the dauber who casts bad colours upon our good linen, and calls the work painting; and even the man who cooks our dinner, white-aproned, a greasy-featured *chef de cuisine*, would be highly offended if not allowed to use the title of *artist*. And no doubt the stage-strutter, the handler of brush and colours, the chemist of the saucepans, and many others of their brethren, have a right to be considered artists—that is, in the newly-formed sense of the term. As all know, our word *art* is derived, directly, from the French *art*, and, indirectly, from the Latin *ars*. The word originally meant simply skill, and nothing else. The Germans call art *Kunst*, which is just the same thing, the word being derived from *können*, or to be able to do something. All our old authors speak of art in the same sense. Thus Boyle gets eloquent about 'the *art* of making sugar,' and Shakespeare, evidently handling the word art in the German sense of *Kunst*, or *können*—sadly changed, in our modern English, into 'cunning'—speaks of art as a mere handicraft:—

> The art of our necessities is strange
> That can make vile things precious.

The word *art*, as now generally used and understood by us, is of comparatively modern date. Neither Egyptians, Greeks, Romans, nor any of the nations of antiquity, distinguished what we call art from ordinary skill or handicraft. Nor did we in England. The ancient guild of 'hammermen,' are still proud of their motto, dating back probably to the thirteenth century, 'By hammer and hand, All arts do stand,' a motto which

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Greeks and Romans might have adopted. The truth of it, in fact, was at the bottom of all Greek and Roman art. Every man who, with nimble fingers, guided by a healthy brain, skilfully executed works of sculpture, of painting, in metal, or any other form approved by the public taste, was a true artist, and had the right to deem himself such, although not calling himself by the name. By itself, the word in this country seems to have been unknown, if not despised. One of the most splendid of our relics of statuary in metal, the effigy in the famous 'Beauchamp tomb,' at Warwick, bears proof of this fact. The sculptor, William Austen, an artist in the highest sense of the modern meaning of the word, simply engraved his name on the monument as 'citizen and founder.' So again the sculptors of the beautiful statues of King Richard II. and Ann of Bohemia, in Westminster Abbey, Nicholas Broker and Godfrey Prest, simply style themselves 'citizens and coppersmiths of London.' A modern 'artist' in copper would probably be driven to madness by being called a 'coppersmith.'

Hand in hand with the ancient conception of 'art,' but as distinctly different from the modern meaning of the term, was the mode of art-education. It was simple enough, and as practical as it was simple. The student who wanted to learn painting, or sculpture, or any of the other things we now class among the 'arts,' the 'fine arts,' and the 'high arts,' did not visit any special schools for the purpose, as is the fashion now-a-days, or place himself at the feet of professors whose sole ability is that of propounding certain theories, and twisting them round under all sorts of perspectives, but he went straight to the workshop of a man known to be a master of the business, and enrolled himself under him as an apprentice. If the master, after due examination, did not find sufficient aptitude for his craft in the pupil who presented himself, he would not accept him at all; if afterwards he discovered that the pupil had not sufficient capacity, he merely turned him away, bidding him to follow some other calling. It was in this no less simple than efficacious manner that, without exception, all the great artists of antiquity were produced, and it was, no doubt, the true and natural way of production. Only when 'art,' in all its forms, was on the decline in Europe, did so-called 'academies,' designed chiefly to teach theories, spring into existence. The first of these 'art academies,' as far as is known, was started by an Italian, one Franco Sguarcione, a painter of the Venetian school, born at Padua in 1394, and dying at the same place in 1474. Having largely travelled in

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Greece and Italy, purchasing such works of sculpture and painting as he could obtain, he settled down in his native town, formed a 'museum' of his purchases, and, in connection with it, set up an 'art academy,' where the pupils, besides hearing lectures, had to set to work copying the models laid before them. From a financial point of view, it was a capital idea, over the execution of which Signor Sguarcione could not but rejoice. He had numerous students, and made plenty of money, but he turned out no pupils of any eminence. One only, Andrea Mantegna, made himself a name, but not through what he had learned at Sguarcione's Academy at Padua. Quitting it, he placed himself as apprentice under the famous painter, Giacomo Bellini, one of the heads of the so-called 'Venetian school,' learnt painting practically, and, perhaps inspired by the beautiful eyes of Bellini's sister, whom he afterwards married, became an artist of great renown. That was exactly the way it was done in Greece and Italy before Signor Sguarcione had been blessed by the inspiration of his Paduan Art Academy.

Of course, the Paduan establishment proving a most prosperous 'money-making' concern, it could not fail that others should spring up in its wake. Really great artists, like Leonardo da Vinci, condescended to open academies similar to that of Signor Sguarcione, thereby to add to their often slender fortunes. It is absolutely painful to read of the struggles of this true but ill-fated genius, flying about the world, and earning a precarious income by teaching blockheads the rudiments of art, when he himself might have produced masterpieces. Leonardo da Vinci, with all his immense genius, was no more lucky in producing artists from the raw material in his hands, under the new method adopted, than others of his competitors in the trade; but nevertheless the 'academy' method not only spread, but spread very rapidly. It became a royal fashion in Europe to grow artists artistically towards the middle of the seventeenth century, under the auspices of Louis XIV., called by his admirers 'le Grand.' Perhaps, had pisciculture been then known, 'le Grand' would have preferred it, for the artist-growing proved to him a somewhat costly and not always pleasurable amusement. As it was, the Paris Art Academy rose into being in 1648, followed quicky by similar institutions in Berlin, Dresden, and Vienna, capitals, the sovereigns of which took no greater pride than that of slavishly imitating, as in the building of their residences, so in their official establishments, the example set by

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'le Grand' and his court. 'With how little wisdom this world is governed!' says Oxenstiern.

A very curious, though not by any means incongruous, offspring of the system of art academies thus gradually established all over Europe was the system of distributing 'prizes.' Who was the inventor of this practice is not known. It may have been an unsuccessful agriculturist, with an idea of raising grapes by putting plenty of manure on turnip seeds. It is not necessary now to say much of this system, which is generally condemned by all thinking and all practical men. The only effect of the 'prize' system, it is at present generally admitted by all who understand the subject in its inner bearings, has been not to elevate but to degrade true art. Just like the 'Spelling Bees,' imported from our cousins west of the Atlantic, and the success in which was for a short time supposed to aid in the study of language, till it was found out that the profits of it went entirely to clever youths who traded on the 'art,' chiefly printers' readers—*Honi soit qui mal y pense*, as far as our literary friends the 'readers' are concerned—so the 'prizes' offered by art academies fell almost entirely to the lot of individuals whose sole object it was to earn 'prizes,' and cared for nothing else. On the continent of Europe the giving prizes for art-proficiency has at present been almost entirely abandoned, under the protest of the mass of eminent artists. That the system still flourishes to some extent among us may be due—not so much to that we believe in it, but to some little weakness in our national character springing from generosity. As in England, more than anywhere else, the pence are dropped in profusion to beggars—not because the giver believes for a moment that the recipient deserves the alms, but, on the contrary, holding him to be more probably an arrant impostor; so men subscribe to prizes for art-students either out of pure vanity, or in the shadowy expectation that, 'after all,' some good may come of it. It would be interesting to get some statistics of the sums thus still squandered every year among us on 'prizes for art;' but probably most men would be shy to confess out of how much money they have been 'fooled' by subscriptions for this kind of thing. I speak feelingly on the subject—*fungar inani munere*, discharging a fruitless duty.

Following upon the 'prize' system, designed or pretending to be designed for 'the encouragement of art,' came another curious scheme in the same direction, even worse in its ultimate results as regards the objects it sought to accom-

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plish. It was that of 'art unions'—or, as they were called by the Germans among whom they first arose, 'Kunstvereine.' But though originating in Germany, the real inventor of the 'art unions'—like that of the 'art academies'—was an Italian, a fifth-rate artist, bearing the name of Dominico Quaglio. Finding that his pictures did not meet with buyers in his native country, Sinon Quaglio—name of suspicious sound—came about the year 1820 to Munich, the capital of Bavaria, where he got into connection with some noted artists, such as Stieler and Peter Hess. It was a golden time for artists at Munich just at the period. The heir to the throne, afterwards well known as King Ludwig I., the greatest royal patron of art of modern times, had begun already to spend the larger part of his immense fortune year after year in buying pictures and sculpture; and his example was followed by not a few wealthy Bavarians—noblemen, brewers of beer, and growers of hops. It would seem that Crown-Prince Ludwig not only bought the paintings of Signor Quaglio, but recommended them to others as 'works of art,' and it may have been this which inspired the Italian gentleman with his brilliant idea of the 'Kunstverein.' Established in 1823, under the auspices of the heir-apparent of Bavaria, it proved at once a brilliant success so far as the taking of money was concerned. All the art-rubbish that had accumulated for generations in Bavaria found ready distribution among the members of the Munich 'Kunstverein,' who could not help taking what was sent to them in return for their subscription. The beauty of the conception of Signor Quaglio lay in this, that all the subscribers got something in the way of 'art.' If the lottery ticket did not assign the holder a daub in oil, it secured something in the shape of water-colours; and engravings were always ready should the supply of the latter run out. So the promoters of 'art' were 'made happy all round,' and what could men wish better? The success of the first 'art union' at Munich led to the rapid spread of similar organisations all over Germany, Austria, France, and finally England. It was a new and certainly a clever way of making money under the pretence of high motives and utter disinterestedness. After the strict model of Signor Quaglio's establishment at Munich, there sprang up 'Kunstvereine' at Berlin, Dresden, Leipzig, Breslau, Düsseldorf, Frankfort, Cologne, Prague, and Vienna, besides others in Paris and various other towns in France. The wave of 'art encouragement' quickly swept, with other fashions, over the British Isles. A knot of clever men, but with scarcely any notable artists among them, started the 'Art

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Union of London,' in February 1837, and after some little struggle against Trafalgar Square got the institution incorporated by Royal Charter, under date of December 1, 1846. The great difficulties opposing the realisation of Signor Quaglio's brilliant ideas in this country were the old Lottery Acts of George IV. and William IV., which imposed heavy penalties not only upon holding, but even for advertising lotteries. However, the managers of the 'Art Union of London,' joining with others established in England and Scotland—the most notable of the latter, under powerful patronage, set up in Edinburgh in 1838—succeeded, by the exertion of immense energy, in getting the old Lottery Acts repealed in their favour. By 9th and 10th Vict., cap. 48, which obtained the Royal sanction on August 13, 1846, it was made lawful for 'Art Unions' to break the existing laws, and to start lotteries for the sake of encouraging 'art.' A speaker in the House of Commons, opposing the passing of this Act, pointedly remarked that 'Art must be on its last legs' if it required exceptional legislation for its 'encouragement.'

To the credit of the Germans it must be said that, although 'Künstler Vereine' arose among them, the vast majority of real artists in that country are now entirely opposed to them. It has long been perceived that these associations, so far from doing anything to foster true art, put on the contrary a drag on it—by manuring the growth of hopeless mediocrity, and not unfrequently barring the path of true genius, unwilling to cringe to self-styled patrons and to obey their rules and regulations. It is to be hoped that the new German view, largely adopted also in France and Italy, will likewise prevail before long in England. Obviously, it recommends itself to the sound sense and practical mind of our nation more than any other. The least reflection must show to anyone that to give prizes for progress in art is as absurd *per se* as to give prizes for the making of good boots, hats, or umbrellas. What is true of the poet, *Poeta nascitur, non fit*, is no less true of the artist; it is, perhaps, even more so. No amount of 'prizes' in the world will raise up an artist worth the name, while no number of 'art unions' can possibly foster real art. They are simply 'unions' in the vulgar sense of the word, serving as places of retreat for artist paupers. They are already so called in German—'Unterstützungs-Anstalten für arme Künstler;' that is, 'Institutions of Help for Poor Artists.' Alas for art to want such 'help'!

The remedy for the present state of 'helplessness' of art, which is said to require 'prizes,' appears to me to be not far

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to seek. We must do away with all these things, of which all real artists must be the first to feel ashamed, and fall back as much as possible upon ancient methods—such as those prevailing, for example, in the best period of Greek art. There sat the master, acknowledged to be a man of genius, with his pupils around him in a simple workshop. He carefully watched the work each was producing, more carefully still he watched whether any of these works contained the germ of true genius. There was little, if any, of the so-called 'division of labour' of which we in our day are so proud, as a wonderful achievement in political economy. If aspiring to be a painter, the young student must not only prepare his own canvas, but mix his own colours; if to be a sculptor, he must hew his own stone from the rough, and sharpen his own tools on the grindstone; if a goldsmith, or worker in other metals, he must understand the proper melting and polishing of all these substances, besides the skilful handling of graver, file, and hammer. And in all and everything the student must be *original*, following 'models,' old or new, far less than the promptings of his own genius. To be original and to be practical appear to be two essential conditions in the pursuit of true art. I entirely agree with Ruskin that 'The power, whether of painter or poet, to describe rightly what he calls an ideal thing depends upon its being to him not an ideal, but a real thing.'

DISCUSSION.

Mr. Cornelius Walford (London) said he could bear testimony to the practical character of Mr. Watherston's views. He thoroughly agreed with him to this extent, that if they were to have a true development of art they must have none of the wet-nursing which was associated with prizes. They must have education of the people in artistic tastes, which would produce the double effect of increasing the appreciation of good works of art, and also increasing the range of buyers. By this means young artists would be encouraged and would not have to starve while engaged in the creation of what they believed to be great works. In that way, by building up art on the intelligence of the people, an influence would come over it of great advantage to the artist as well as the public. In regard to schools of art he was not quite clear as to Mr. Watherston's idea. Of course it was a very nice idea to have a great master surrounded by his pupils, but he thought the tendency was to suppress that individuality for which Mr. Watherston had contended. It was also no doubt a great thing for a pupil to be under the protection of a master; but it had the danger that after a time the pupils became copyists of his style, and very little

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more. What seemed to him to be required was that schools for inculcating the general principles of art should be established wherever possible, and that when they had acquired these first principles and rules the pupils should be allowed to go, so to speak, 'on their own hook.' Therefore whichever way they looked at the matter they came back to the same conclusion, that they had only to build up in the people a love for art, and the rest would follow. In a mercantile community like ours there never was a demand created in any legitimate form which did not find a supply, therefore what they wanted to do was not to wait until the wealth of the people enabled them to give large prices for the pictures, but to induce love of art in all households, so that persons might manifest it step by step, and, as they became better off, replace the pictures which they at first possessed themselves of by other and better ones.

Dr. Farquharson, M.P., was very glad to have an opportunity of saying how entirely he agreed with what had fallen from Mr. Herkomer as to the destructive influence of schools and masters on individuality in art. Mr. Watherston had drawn an attractive picture of the art schools of olden days, when some of the pupils wasted their time in painting backgrounds—certainly not a very living branch of art. He did not know any case in which it could be shown that any great artist of the past or present time really owed anything to a master, but rather was his success due to his own individuality and power. He did not know that South Kensington had yet produced an artist, though possibly it might do so in future years. The reverse, however, was the case with the Salon in Paris. As to historical art there might be a question as to what historical art really was, whether it was a reproduction of things of the past, a certain number of models masquerading in fancy costumes, as Mary Queen of Scots, or Rizzio, a man with a long beard calling himself Abraham or Noah; or, whether the term might not with more propriety be applied to such works as Millais' portraits of Mr. Gladstone and Mr. Bright, or Mr. Herkomer's 'Last Muster'? These appeared to him to be more truly historical paintings than those masquerading in fancy costumes of which the artist could have no personal knowledge from life. He quite agreed that men must be emancipated from the trammels of a master, and that they must not be in leading strings, or their time would be utterly wasted. Then, as Mr. Herkomer had pointed out, there was the danger of placing a pupil under the wrong master, and he had given the instance of Frederick Walker, which was a very typical one. But there was also the danger of the pupils failing to reproduce in any degree the mind of the master. He would, though with diffidence, mention another name, that of Mr. Burne Jones. They all acknowledged his genius, but it was unfortunate that his imitators had produced monstrosities which were truly lamentable. It seemed to him that what they had to do was merely to encourage the best general education among artists, and then to turn them loose and allow them to find their own style as far as possible. In that way they would maintain the individuality, which was, he thought, the glory of our English school, still as far ahead of other schools as in

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any former year. He could not follow Mr. Watherston in his denunciation of prizes. If there was to be any encouragement at all, he failed to see why it should not take the form of prizes. Again, as to Art Unions he could scarcely follow Mr. Watherston. The difficulty no doubt was to get persons of capacity on the Council; but this being done, he must say he could not see what there was in any way damaging or degrading to art in the Council making a selection of pictures, for which the artist would be paid and for which the subscribers would have the chance of competing.

Dr. N. Heinemann (London) confessed that there were several points in the Paper read by Mr. Herkomer with which he could not quite agree. Those who knew the picture-galleries and museums of the Continent would, without doubt, have observed the fact that there were more historical paintings to be met with there than in this country. There was no question as to what historical paintings were, and, referring to the remarks of the last speaker on this point, he would say that the man with the long white beard who was intended for Abraham, clearly did not form an historical painting. They could put on canvas the history of a great nation like the English by recording the great deeds of its people and phases in the development of its institutions. The history of England was full of events, facts, circumstances, episodes, and scenes which, in his opinion, would lend themselves easily and most naturally to pictorial representation. The public life in England was of a stirring, attractive, and fascinating character, and the historical painter would find in it subjects of great charm from a pictorial point of view. The question which was treated in the second Paper seemed to him—if properly understood—to lie in a nutshell. A pupil had to learn, in the first instance, the *technique* of his art, and having mastered that, which he could only do by the personal aid and assistance of the master, he would have arrived at the point where he was able to embody on the canvas by means of this *technique* those ideas to which he wished to give expression. Considered in that light, schools need not be impediments to the true development of art if the pupil had any individuality of his own. In regard to what had been said about prizes he would ask what did a prize mean? In former days the system was very different. The people who were patrons of art gave a commission and it was executed. In the present day commissions by individuals are of course still given as before, but art-unions had been established, viz., corporations, so to speak, which likewise gave commissions to artists for the execution of works of art. These art unions—whatever harm they might have done according to some—accomplished a great deal of good. The artist required a market for his work, and there was no more harm in a combination of persons taking his work than in one person doing the same thing, provided a cultivated taste and an appreciation of the truly beautiful were the ruling motives in such an art-union.

Mr. Robert Herdman, R.S.A. (Edinburgh), after alluding to the interest and value attaching to Mr. Herkomer's Paper, said that from the artist's own point of view there was nothing more difficult than to

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talk about art to practical effect. It appeared to him that on most general questions there was nearly as much to be said on the one side as on the other, and in regard to this particular subject it had been one of difficulty in all ages of art, and he expected it would still continue an undetermined point. In view of that fact Mr. Herkomer was wise in contenting himself with an expression of his opinion and in not attempting to dogmatise. They would all agree that it was disastrous to place a pupil under an unsuitable master, but the question might still be asked whether, on the other hand, in certain cases the influence of a master might not be exceedingly beneficial. There was a great deal of floating artistic accomplishment in the country which had not been turned to its best account, and which might under the guidance of able artists be utilised for the general good. The question as put in the Papers seemed to comprise three subjects: first, that of master and pupils; secondly, the growth of a school of historical painting; and thirdly, that relating to public buildings. In reference to the question of historical art he thought the growth of a school of such art would be immensely promoted by giving greater opportunity than now existed for artists to develop any faculties which they might possess in that direction. At present our art was for the most part domestic in its character and in its size; and the latter being mainly determined by the scope afforded by the rooms of our houses, he did not think we could look for anything very different from what we had at present, as far as private encouragement went. He believed, however, that if our municipal buildings and professional halls and other kindred places were thrown more open for pictorial decoration to the art energies of the country, there would be a strong effort made on the part of the artists to meet such requirements. And he had no doubt at all that art would thereby become a far more powerful educational force in the country than it was at present. When that time arrived there would almost of necessity be to some extent a revival of the master and pupil system, because under such circumstances it was impossible that the artist could, single-handed, carry out such works as might be offered to him, and he would be compelled to avail himself of the services of skilled and trained assistants. He belived this would be the best thing that could happen for many of our younger students, for instead of following their own devices—often leading to a restricted and futile mannerism—they would be called in to assist by giving useful and excellent aid in carrying out important public works. Mr. Herkomer's address was so suggestive, that though he did not offer any very dogmatic opinion of his own on the subject, it was yet so full of material that they need not be long in arriving at some sort of conclusion for themselves. On the part of his professional brethren in Edinburgh he felt they must express their admiration and thanks for Mr. Herkomer's exceedingly suggestive and valuable Paper.

Mr. H. C. Boyes (Hon. Secretary of the Department) said that an example of each system of education—that of master and pupils, and that of academies—might be found in the training of architects in this country and in France. Here the system of education was that of master and pupils. In England a young man was apprenticed to an

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architect, with whom he learned the *technique* of his profession. This was not the case abroad. On the Continent, especially in Paris, the architect was trained more in schools and academies than in offices; and he thought they might see the result of the two systems by comparing the present position of Continental architecture with that of this country. They had in Paris a few academic styles which were worked on thoroughly academic principles and in a classical way, but they missed what they got in England—originality—which, though it sometimes degenerated into vulgarity, yet generally gave a picturesqueness and variety to our buildings. We had in modern English architecture many examples of picturesque effects more or less successful, which were altogether wanting in the perhaps more refined styles which were the result of the academic teaching prevailing abroad. The same remark, he thought, applied to painting. We in England had greater variety, picturesqueness, and individuality, and less academical precision. It was, however, a question whether, when painting and sculpture should be again more used for the purpose of decorating our buildings, we should not require more academical precision and more of that unanimity of style in our architecture than are likely to be obtained in our present system of training.

Mr. W. D. M'Kay, A.R.S.A. (Edinburgh), said he had gathered from Mr. Herkomer's remarks that he was decidedly against the master and pupil system, but he ventured to think that to a certain extent the revival of that system might be for the best interests of art. He thought experience showed that such attempts as had already been made to revive it had not proved altogether a failure. He would only give one instance, not perhaps strictly analogous to the master and pupil system of a by-gone time, but one which in many respects closely resembled it. He referred to the influence exerted by the late Robert Scott Lauder on those who studied under him at the Trustees' Academy. Mr. Herkomer must be acquainted with the works of Orchardson, Pettie, Graham, McWhirter and others, now resident in London. It could hardly be contended that the individuality of those artists had suffered by such training. Mr. Herkomer had referred to Frederick Walker as an instance in favour of his view. No one was a greater admirer of the influence of Frederick Walker than he (Mr. M'Kay), but he thought it was questionable whether he had not suffered from want of early training; and as to destroying originality he did not think that any amount of early training could have restrained the individuality of Walker.

Mr. P. H. Rathbone (Liverpool, Honorary Secretary of the Department) said if they would study the master and apprentice (as it should be called rather than master and pupil) system, they must go back to the time when it was thoroughly well tried, and that was the late Italian period. There they would find several instances to show whether it spoiled the individuality of painters. He must demur to one statement that had been made, that it was not till Raphael shook off the influence of Perugino that he did anything of importance. He did not consider that Raphael ever shook off any influence, but rather that he strengthened it. His work was never cribbed or cabined by the influence of Perugino. His genius was able freely to grow, and he

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struggled on until it worked out what was best, brightest, and most individual in him. Let them take an instance from the sister art of poetry. Shelley was originally a self-taught man, and his early poems were far inferior to the later ones, when his mind had become more amenable to educational influences. With one great exception, all the self-taught poets had more conventionality and less of absolute originality about them than those who had the fullest and most complete education. He thought if they took the Italian painters they would see that those who were most original had given the greatest freedom to their scholars. They would not find that Giotto was restrained by extreme conventionality, and yet they would find that the influence of every strong mind went through the whole of that school. It was the same in the Florentine school. He took exception to Mr. Herkomer's assertion that Leonardo da Vinci did not found a school. They could not go to Italy without seeing the remarkable influence which Leonardo da Vinci exercised upon contemporary art. Then, as to the question of historical art, it was impossible, as Mr. Herdman had put it, to expect a man of real genius to cover a large wall space without assistance. Thus, if he had apprentices, he would be able to do better work, and he could leave to them the grinding of colours and the painting in of backgrounds. If, on the other hand, these men showed real genius, they could soon establish a school of their own. Some of the mediæval artists must have had a perfect army of assistants; and, had they been left to work by themselves, they would have done no good at all. Therefore, he thought if they got back the master and apprentice system they might expect a great renewal of historical painting, which was valuable in teaching people. They could not expect workmen to buy pictures, they could only expect them to see them where they were placed; and where could they be so well placed as in the churches? One other point was in regard to costume. They must all agree that the absence of fancy costume was one of the great difficulties of the present day. That was one great advantage which the Florentine and other schools possessed when they went to paint the history of what had gone before. They painted it in the costume which they saw around them, and it never occurred to them that the people were differently dressed from those amongst themselves. At the same time, a much prettier costume prevailed then than prevailed now, and if they wished to give colour and effect to modern pictures he was afraid they must alter their ideas about dress. Mr. Herkomer had drawn attention to the fact that men's work often enslaved those who followed it even more than it did the man who originated it, and he instanced the case of Frederick Walker. If Frederick Walker founded a school, he thought it would have been better if some of that school had worked with him. If some of them had only acquired his spirit of originality, that school would have been more real and living than it had turned out to be.

Mr. E. J. Watherston (London), referring to remarks of some of the speakers as to his observations on prizes, desired to say that he had no objection at all to giving prizes. All he had to say was, that as a branch of technical education he thought it was putting the cart before the horse to give prizes in the first instance to students. The Gold-

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smiths' Company of London had been advertising the great advantages offered to technical instruction in the prizes they offered for drawings. He objected altogether to that as a means of technical instruction. He believed they ought to have schools in which the art or mystery was taught, and that the end could not be attained by merely giving prizes for drawing. They would observe that his Paper had no reference to the special subject, therefore his remarks were not to be applied to the painting of pictures. Unfortunately they were too applicable to working in metal, but he should not venture to apply them to painting in the presence of so many distinguished professors of that art as he saw around him.

Mr. Perigal, R.S.A. (Edinburgh), while admitting that higher art was very slow to develop itself, thought no advantage was to be gained by the giving of prizes to art-pupils; in fact, he believed giving prizes might be a generous thing to do, but not truly kind. As to the question more immediately before them he thought it was undoubtedly a good thing for pupils to study under a good master, but he also thought real genius would assert itself in spite of the master, and so the objection which had been raised amounted to very little. If genius did not exist it could not be produced in that way. Our Edinburgh R. A. Schools gave a large number of prizes; and we sometimes found difficulty in bestowing them. He mentioned this to show that the prize system did not always work in the direction indicated by the readers of the Papers.

Mr. George Burnet, Advocate (Edinburgh), thought there were two general ways of looking at this question. The one was the system by which a great and master mind was brought into immediate contact with the pupil, who was to be instructed; the other, the system by which the minds of pupils were influenced in a general way by the lectures of a professor. If one might take an illustration from another branch of education, he should say like the different systems which prevailed in the English and Scotch Universities respectively. The system of master and pupil might be compared to the tutorial system of English Universities, whereas the other means of education might be likened to the professorial custom, which formed the means of education in Scotch Universities. He thought up to a certain point there could be no difference of opinion, for there could be no doubt in regard to the influence of a master mind, that the more directly it was brought to bear on the pupil the greater would be its effect. For a pupil to be working in the *atelier* or studio of a master and to have the influence of a master mind brought to bear upon him, he thought it would be admitted would be more beneficial than simple training in schools of art, or *design* as they were called. He thought, therefore, they would be unanimous in their opinion that, so long as the influence of the master was merely a stimulant to the pupil's ideas it was advantageous; but that when it went beyond that it was prejudicial and oppressive. In a recent number of the *British Quarterly Review* there was an able article entitled 'The Profession of the Architect,' and it touched upon the question now under discussion, as applied, of course, to the architectural branch of art. The writer

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of that article deplored the outcome of this very system on the part of English architects, remarking that the profession of an architect was in our day a mere profession, and not as formerly—a living branch of art. He was much pleased with a remark of Mr. Boyes, pointing out the distinction between the system prevailing here—which was the master and pupil system—and that prevailing on the Continent, which he described as an academical system. He was, however, much surprised to hear that that was the case. It appeared to him if there was one thing beneficial to the Continental architect it was his being able to work in the *atelier* of some celebrated architect, and to adopt the suggestions thrown out by a master mind. It appeared to him that that was the system most calculated to develop latent power. We did not want individuality to be checked, but it was necessary to give it a fair chance. We wanted all our artists to be put in possession of the tools, so to speak, of their art, and to allow them to use these tools as far as possible in the manner suggested by their own individuality and self-development. The result of the different systems, however, was that on the Continent they had a living school of architecture in the present day, which, with all deference to the architects who might be present, could not be said for this country. Our architects seemed to have really no original ideas to fall back upon, and so they simply copied every conceivable style of old building, and produced what was generally little more than a *réchauffé* of Gothic or Classic design. The Continental system, on the other hand, produced a living school, a sort of apostolic succession from the time when men really designed the works which were now only imitated. In the Palais de Justice in Paris they had a good example of a living power at work in architectural design, for which they would look in vain in this country. He really knew of no building in Edinburgh, with perhaps one exception, which appeared to him to be designed as the result of the natural feeling of beauty in the mind of the artist working upon the plan required by his employers, and upon the materials at his command. If they were to look for a native and genuine style of architecture in this country, it must be the product of these two factors. The old practice was to suit the design to the materials; the design was, in point of fact, the outgrowth of the material, and to a large extent developed out of it. They did not find an imitation of carved work in cast-iron or any of the barbarities or monstrosities which were displayed in modern times. The old architects studied the beautiful, and had a thorough appreciation of it in the sphere of art with which they had to deal, and the system of study which worked so well in their case certainly deserved attention at the present day.

Mr. Herkomer, in reply, alluded to a remark of Mr. Rathbone taking exception to what he had said regarding Leonardo da Vinci. Mr. Rathbone had misunderstood him. He had not said that Leonardo da Vinci had not founded a school. He should be the last to say that. The discussion they had had about historical art had been very interesting; but he would only say in regard to it that the painter loved the picturesque, and in this country, where costume was so unpicturesque and there was so little that was inviting to the eye, they had

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difficulty in finding anything that was worthy of painting. The painter's work was made harder by the circumstances which surrounded our modern life. But, having to look deeper than the mere outward picturesqueness, he touched the poetical side of nature, and, although this country is not essentially picturesque as regards the figures, it is *most poetic*. A deep-feeling nation such as the English nation is sure to suggest to the searching painter the highest subjects for art. There was no doubt that a man could more truly serve historic art by painting things as they were now for future generations than by trying to imagine how things were two or three hundred years ago. Still, he would say, let every man paint for himself; and he would not say, 'Don't let us have these historical works.' He had anticipated more opposition to his Paper. In one sense he was, of course, highly gratified, but in another he was not. In any case they had had a most interesting discussion, and he was sufficiently rewarded by the recollection that he had helped to bring it about. He had taken the liberty of separating the three questions involved in the form in which the special question was drawn, because he could not in half an hour undertake to deal with more than one of them. The others were, however, of great importance, and, notwithstanding the discussion which they had had, he should be glad to see them taken up at a future time. Of these questions, that of historical art probably occupied the foremost place.

The President (Professor Richmond), in closing the discussion, said the first question which occurred to him on Mr. Herkomer's paper was what was to be the education of the student before his taste or selection was formed. It appeared to him that the whole difficulty hung upon this. In the first place the *technique* of art was enormously difficult. The hand had to be trained to express what the eye saw and the mind conceived, and, if that hand could be taught to express itself clearly and with certainty under the guiding mind of an educated artist, surely it must be of advantage. Take merely the question of drawing, what a difficult thing it was to an old man, a man of middle age, or even to a boy of sixteen, to begin it, for he had to learn to draw even a straight line correctly. Then there was painting—probably the most difficult form of their art. Mr. Herkomer had alluded to Frederic Walker's 'Bathers,' and he seemed to think nothing could improve that picture. Mr. Walker was a fellow-student of his, and he could never speak of him in any other terms than those of high praise and respect, but he thought that that beautiful picture lacked one quality, and that was the quality of painting. If Mr. Walker had been put early in life under one who had had years of experience in the mere laying of paint upon canvas, those faults, as he thought them, of Mr. Walker's works would not have been so observable as they were. Mr. Herkomer appeared to think it rather detrimental than otherwise that a young painter should be placed under a master with whom he did not entirely sympathise. He ventured to disagree in that view. Take for example the case of a student who might have a great turn for form, all that would fail in powerful interest to the public if he had not also a great appreciation of colour. It appeared to him to be most valuable for such a student to go into a school, not of a great master of form, but of colour, and so have the

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want in him supplied, and *vice versâ*. Mr. Herkomer had said that they did not want more learning. Now it appeared to him (the President) that that was, of all other things, the very thing the English school most needed. By learning he did not mean *mere* academic learning, but he meant the knowledge of construction practically learnt, and particularly the construction of the human form, which could only be taught thoroughly in the studio of a man who was conversant with it and had a deep feeling for beauty. But more than that, there were such things as laws relating to drapery, which, if known and thoroughly understood, would be of immense assistance to the painter. He could not see why both anatomy and the laws governing drapery—comparatively simple things to learn, and which everybody must know to be a great artist—should not be taught by the master to his pupil, and why that sort of teaching should not be of infinite value. When Mr. Herkomer said that drawing without life was bad, and that it was no use placing a bad model in front of a student and expecting him to learn to draw from it, he entirely agreed with him. He thought there was only one thing in regard to the educational value of studying models which was of any utility, and that was the study of instantaneous action. He had often had occasion to lecture upon the question of art schools, and he had always made it a point that it was quite absurd to teach men about the human figure by putting up a model and making them do stippled drawings from, perhaps, an extremely ugly individual. What he would do was this—he would take in the first instance some beautiful specimen of antique sculpture, and side by side with that he would place a model; he would then make the students draw the two, one after the other. It appeared to him that by this means the taste would be guided, and the spirit of selection and analysis between beautiful and ugly forms, so important to artists, would be called out, and the students so guided would in after-life be prevented from making those mistakes which, though made unconsciously, were so disagreeable in their taste to others. Then, with regard to action, he would have a motive given for every figure that was drawn. He would not allow any student to work more than ten minutes on that action, and thus he would constantly be educating the hand to express what the eye saw. There was no motion, however simple, in the human body that lasted more than a few seconds, and it was the selection of the exact moment of time that made all the difference in art. There was one more point on which he must take exception to what Mr. Herkomer had said. He did not appear to like the idea of wall paintings, but in that he entirely disagreed with him. The art of the world had been done upon walls, and he thought the kind of education necessary to enable men to paint on a large scale was the sort of education which was now wanted in England. Unless they got some system of art education which would enable men to paint large subjects upon walls, art would degenerate into mere *genre* painting, and nothing would come of it. With regard to the second Paper it appeared to him that there was considerable interest in it. Mr. Watherston appeared to think that the old plan of the art apprentice which prevailed in the early Italian time had much to recommend it. He (the President) thought so too.

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A lad could not be in the studio of an enthusiastic painter without feeling a stimulus in seeing the work go on in all its phases—of disgust, of sorrow, and often of tears. He would observe that all this time his master was not a sententious or a proud man, but one labouring under a strong desire to produce something that was beautiful and noble. He could observe that he had his times of emotion and of grievous depression, of disappointment and of burning enthusiasm and elation. Those were scenes which would stimulate the student to exertion, and to the acquisition of knowledge which would enable him to overcome one by one the difficulties which had proved so troublesome to his master. The old student system brought to his mind the question of the grinding of colours. He happened to have a great deal to do with this question, because he was a member of a committee of which Mr. Holman Hunt was chairman, formed for the purpose of supplying absolutely pure colours, which could not be obtained of the ordinary colourmen. This question of colour touched very nearly indeed on the master and pupil question, for it was part of the *technique*. He entirely agreed that they could not create originality, but they could further it by educating students in such a manner that when it came to them to express themselves they would be able to do so in clear language. They must know the grammar of their art, and if, as had been said, they possessed any originality, surely no one would think that education would be an impediment. Rather, he should say, that the man was not original until he was perfected by education. The world was apt to mistake curiousness for originality. Mr. Rathbone had wisely alluded to poetry. If they took the growth of a man like Shelley they would see that the early poetry of his life was inartistic—it was emotional to a degree to be unpleasant; there were too many imageries in it; it was overcrowded, it was unselected. But, as Shelley became more and more conversant with the noble strength of Greek poetry, he eliminated a great deal of that matter which was really of no account whatever in his own poetry. As he grew older and became more educated his poetry became more beautiful, but it had lost none of its spontaneity or originality. That was what education did, and he did not see why, if it had done it in poetry, it should not do it in any other branch of art. They had been talking a good deal that day about historical painting, and he was very much inclined to agree with Mr. Herkomer that true historical painting was contemporary history, but he would go further, and say that true historical painting was portrait painting. He thought their ideas of what Charles I. was, and how he looked under certain circumstances, were really of very little value indeed as historical painting. Such a picture might be admirably done and an excellent work of art, but he could not see its historical value. On the other hand, a portrait of Charles I. by an extremely inferior artist would be of real historical value. The fact of the matter was that the reason why so many subjects had been chosen from English history was that the artists desired to paint the dresses more than they did the people. But whatever Mr. Herkomer or any other artist might say on this subject of historical painting, he was quite sure they would agree that allegorical painting was not undesirable.

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They could hardly look over the whole range of art without seeing what an enormous influence allegorical painting had had. They might almost say that the roof of the Sistine Chapel was a great allegorical painting. The idea which permeated Michael Angelo's mind was not only to portray man as a being born to this life in accordance with the account given in the first chapter of Genesis, but a desire to represent him through all the phases of his existence—his sorrows and his joys, his emotions and his disappointments. He was quite sure, if there were any present who had examined that wonderful work, and who had looked at it day after day and week after week, that they would agree it was not only a wonderful painting, but also a wonderful poem. Something had been said about Mr. Burne Jones. It was difficult to talk about a friend, but some words had been used which appeared to him to be slighting to that great artist, inasmuch as it was assumed that some of the influence which he was exercising was not for good but for harm. He could not agree with that. In the first place it appeared to him that Mr. Burne Jones had more invention than any living painter. It was evident so far that any tyro could see that he was influenced by early, rather than contemporary, art. Was there any harm in that? Mr. Herkomer had alluded to Mr. Walker as having formed a school, and if there were many painters who now painted like Walker, and they did not scold them for doing so, they surely ought not to scold Burne Jones for preferring to speak in the language of the thirteenth century. What they all wanted was to further the cause of art. They did not very much care how education was obtained, but they wanted education, whether it was to be by academies, by private teaching, or by individual exertion. On the whole, he thought they were inclined to think that the teaching gained under the direction of a master was better than that gained under the direction of an academy. After all, true education came to a man when in a sense he had done learning his grammar, but he would say—let him be taught his grammar thoroughly.

MUSICAL CULTURE.

How can the Musical Education of the Middle Classes be improved? By ALBERTO B. BACH.[1]

THE question before this meeting is, in so far, a peculiar one, as it would seem to confine the inquiry to the musical education of the middle classes only, and as it almost looks as if it might be inferred that the musical education of the upper classes could be conducted on different principles, or that musical culture in these classes has reached that state of perfection which precludes further discussion. Without entering upon the reasons that may have induced the drawing of a

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distinction here, I would venture to remark, that whatever promotes musical culture in any one class, must inevitably promote it in the other classes of society, and that any means of improvement proposed must be applied to the upper as well as to the middle classes; and therefore I have in my paper discussed the question apart from the distinction so made, and mainly with a view to the general advancement of musical education.

In offering a few remarks on the improvement of musical education, I trust it may be thought but natural that I should view the subject mainly in its relation to the art of singing; and it will be conceded that I am entitled to do so, seeing that *song is the basis of all music*, and that in the human voice we have before us the most perfect, and, in fact, the most wonderful of all instruments. I say the most wonderful, because all instruments, be they string, wood, brass, or keyed instruments, are but imitations of the human voice, and inferior to it, as they are mere products of human ingenuity, whilst in the voice we possess the divine gift; so that Schubart aptly says, 'Song is seated on the throne as king, and all the instruments bow before it as its vassals.' I am sorry I have to add that, in recent times, these vassals have thrown off their allegiance. They have risen in rebellion, and want no king to reign over them.

If we look to the foundation of this phenomenon, we find it but natural that things should have gone thus. As long as the king was of noble mind and cherished a beneficent sway, the vassals obeyed and honoured him; but as the king grew of depraved tastes, and neglectful of his high office, the vassals grew disloyal, and followed their own evil courses. With the degeneracy of true song, instrumentation grew more and more overpowering, so that ultimately refined singing has become almost an impossibility. The more noble forms of *legato*, *portamento*, *messa di voce*, were at a discount, and what was left, the mere brute force, could not exercise any lasting power in the domain of art. The first injury to musical taste is done by the teaching of singing in elementary schools, and it is grievously repeated by the management of so-called choral unions, or vocal associations.

The teachers and conductors are in most cases organists; but for the greater part they are musicians of a very one-sided and superficial training.

I have the highest regard for the organ, and for the musical knowledge and skill of a good organist; but the human voice is an instrument that requires a very different treatment, and

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one that must be specially learned. The teaching of singing in the elementary schools ought to be raised to a higher stage, by which the taste for music and singing would be generally improved, and, besides, a sound foundation for future cultivation be given to individuals showing naturally good gifts.

At present the hideous screaming encouraged in elementary classes is positively ruinous to the musical, and thus to the most delicate, instincts of the young. But lately it has been made evident what artistic achievements may be obtained from children by careful cultivation and intelligent treatment. I refer to the performances of "H.M.S. Pinafore," by a juvenile company. They so greatly charmed the public that they secured full houses, and the delight with which they filled every hearer was the work of some one who knew how to teach children. Should we then speak of cultivation of singing when teachers drill all their pupils for the same song on the same key? Perchance the ear may gain by it, but the formation and culture of the voice is out of the question. The chief requisite to successful teaching is the individual treatment of the voices from the very beginning. The children must sing according to the register of their voices, and their songs ought not to exceed, in the beginning of their education, the compass of one octave.

In the following, I touch on a few more technical points with a view to induce comparison as to what ought to be done with what is done, in husbanding the gift of song among a people.

Even in early childhood parents ought to guard against their children hearing impure sounds or bad music. They ought never to hear playing on ill-tuned pianos, or to handle toy instruments which, by abuse, have lost some of their notes or are out of tune. Let nobody believe that I am here raising too high demands. If the benefit of observing this rule be not perceived at once in the child, it will surely show in later years. I would not have children kept to the learning of any music, especially to singing, before the age of eight. Exercises or songs, containing sustained or *portamento* notes, ought to be practised later on and in great moderation. When their voices break, boys as well as girls must have perfect rest; and only when the voice is settled again exercises may be resumed with great caution. If, by intelligent training, half a tone is gained in compass, one must not go higher at once, but must allow the note thus won to get naturalised, as it were.

It is to be desired that, in schools, each pupil may first be instructed individually in the formation of voice. Later on,

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four pupils should receive instruction together; even six would go profitably together, as they would relieve each other, so that the teacher may not be tempted to make one pupil sing too long at a time. The larger number, besides, is conducive to emulation. Where, to an individual pupil, a whole hour can be devoted, pauses must be made between the singing, which ought to be filled up with the theory of music, and, later on, with the expressive recitation of the texts and with the master's rendering of the songs. For in no art does the living example promote more rapid progress than in the art of singing. The pupils having well laid hold of the master's style, they must be made to repeat the song individually, when deficiencies that may occur are brought under their special notice, to the advantage also of those who have to sing in their turn after them.

Pupils must sing small exercises ranging within the fifth, or perhaps the octave, first individually; and only when these are true and correctly executed they may be sung in unison. With children between nine and twelve, I should not like to go beyond a compass of nine or ten tones. To make them start the notes truly, an excellent exercise is to make one pupil sing the tonic; the next, the third; the next, the fifth; and another the octave—thus, C, E, G, C, &c. The chord thus obtained may be sustained without a *crescendo*, for pure intonation merely, and *mezza forte*; afterwards *crescendo*. Farther on the chord may be varied, changing the third to the fourth, and the fifth to the sixth, followed by the dominant with the seventh; to be finished with the original trichord. These and similar exercises ought to be practised also without the piano, which renders the ear more acute, and compels the pupils to sing more truly. Without careful studies in the formation of the voice by the individual pupils preceding, the singing in unison is absolutely objectionable.

As to singing in choral unions, &c., it is simply lamentable. Everybody who has but a little bit of a voice is only too gladly received; and if it be a strong voice, though without a trace of musical culture, so much the better! Then, generally, the singers with feeble voices strive to cope with those with strong voices. And what is the result of such efforts? Screaming and shouting, but no singing! That even giant voices can be destroyed is shown by Homer's Stentor, who ruined his voice, which was capable of overshouting fifty men, when he was foolish enough to engage in a shouting-match with Mercury. How should Pygmaei stand it? The conductor, instead of being fastidious in his choice, thinks the more the better; and he entirely overlooks the fact that a dozen good singers

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produce a far higher effect than fifty bad ones. In the palmy days of genuine art there were certainly fewer vocal associations. Instead of these, choral singing was cultivated in the churches, and each individual had to make thorough studies before he was allowed to join the choir. However common choral singing nowadays is, when almost every town has a number of associations, there is certainly no increase in the number of good singers. The members of such associations not having made proper studies, there is generally incorrect breathing, little or no modulation, false intonation, and I must repeat it, more screaming than singing; and that is the cause why these unions use up and ruin, rather than develop and improve, voices. I am firmly persuaded that singers can be trained only by superior *artistes*; and such singers acting as teachers must be well versed, both in the æsthetic and intellectual branches of knowledge, in philosophy and history; in one word, they must possess a universal culture.

We premise such universal education with everyone who lays claim to the honourable name and title and office of a teacher; and if we demand such culture with any teacher of history, mathematics, physics, and of language, why not with the teacher of music and singing?

The history of music shows that at all times musicians were trained by musicians, and singers by singers. I would recommend as teachers particularly old opera and concert singers of established reputation, who are in possession of experience and skill, though only possessed of a remnant of voice; and such (if they have, besides, the requisite general culture) are certain to exercise a beneficial influence.

An intelligent critic observes, that an *artiste* must learn how to sing so that he may be able to sing even when his voice is gone; and this dictum has been applied to the tenor Rôger, far famed for his eminent artistic accomplishments, who in old age, and with the very residue of his formerly brilliant voice, produced effects such as a young rival of his could not effect with all the power and sonorousness of his voice, because he was deficient in artistic education.

For the proper classification of voices, the conductor requires to have made comprehensive studies. How often are not *mezzo* sopranos allowed to sing high soprano parts, or baritones tenor parts; or, if they have any depth, the deepest bass parts! This appears to me as if one wanted to play clarionet on the bombardon, or double-bass on the violin. Such attempts do little harm to the instruments, but they are the ruin of good voices.

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Art, indeed, has its root in the genius of a nation and of an age; but it is the artist in whom art is incarnate; it is the teacher of the art by whom it must be nurtured, and by whom its seed must be preserved and spread abroad.

What, then, may we expect of the generality of artists and teachers? Schiller says: 'At all times when art declines, the fault lies with the artists.' The bad taste of the public is the result of mediocre, bad, and inartistic productions and performances. And so it is to a great extent at present, both in the opera and in concerts, that physical power is admired rather than refined artistic performance.

And for this fact I blame both the executants and the so-styled professors of the art! And what is to be said of these professors? A person unfit for any other calling, if only able to maltreat the piano, goes for three months to Italy, takes singing-lessons there, and after this protracted period of study, he returns as Signor 'So-and-so,' and gives instruction according to the Italian school. A governess who knows several languages, and how to paint, and play the piano, is not yet accomplished enough; she must also be able to teach the art of singing. Accordingly she takes a few dozen singing-lessons, and being then perfect, she gives instruction also in singing.

Satisfactory results are here out of the question, even though the lessons with such teachers be continued for years. They do more harm than good. But such are the greater number of teachers.

What accounts for their existence and outward success is, in the first place, the absence of organisation in the profession under some leading institution, to which I shall refer immediately; and in the second place, as matters now stand, the popular notion prevailing with many people with regard to the teaching of singing, no less than to that of almost every other branch of education, is, that for the initiation into the art, or, vulgarly speaking, for the beginning, they ought not to choose the best and most thorough master, but that for some time an inferior teacher would be more advisable. They think that teachers of less pretensions will be found less trying for the pupil's comprehension, and more painstaking in the more elementary work.

It is the willingness of the teacher of high qualifications that is doubted. Here Quintilian says: 'I do not count him who is not willing to labour as a teacher at all;' and such willingness being premised, the ability to produce great results is certain to be found with the first-class teacher—in the first place, because it must be assumed that he who excels others in

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skill must have more accurately conceived the way by which the art is attained; and further, because in teaching, what is of paramount importance is the method, which he who possesses the greatest culture possesses in the most perfect degree; and lastly, because no one can be distinguished in the higher paths if he has not mastered the humbler accesses to art. Or else one would have to assume that Phidias was able, indeed, to form the figure of Jupiter, but that the ornamental accessories —the pedestal, &c.—would be better executed by some one else; or that a great orator should not know how to carry on an ordinary conversation; or that the best physicians could only treat severe cases, but were unfit for minor ones.

The first condition in delivery is clearness and distinctness. The more feeble-minded a person is, the more far-fetched and pompous is his expression, just as little people stand on tiptoe. Abstruseness and obscurity of expression are characteristic of want of power, and therefore have little effect.

The true teacher of singing must make a special study of the formation of the voice the task of his life, and he must not rest satisfied with what he picks up during a brief course of instruction, or what he may gather from books. He must devote to it constant thought and research, and must make his studies at first with bad voices; here must he make his observations, and afterwards turn them to account in the treatment of good voices.

It is precisely this wherein the ordinary teacher fails, and therefore for the formation of the voice the best teacher ought to be engaged at the very beginning; for if the pupil has acquired a faulty mode of conducting the voice, of treating the breath, and a wrong position of the mouth, the greatest trouble is entailed upon the conscientious master, into whose hands he may pass afterwards, to correct these faults.

For this reason, according to Quintilian, Timotheus, the celebrated flute-player, used to charge double fees to those who had studied under another master, and his example has been followed by a lately deceased Italian singing-master, Trivulsi.

The few good singing-masters have so many professional engagements, that they are not inclined to give instruction except on very high terms; and few people (least of all those who want to make a living as teachers by their accomplishments) are in a position to meet these terms. Hence the course of studies is limited as much as possible, and success in the profession is sought by illusive means.

As to the *artistes* themselves, there is, owing to the dearth

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of good *artistes*, no lack of engagements for the young singer gifted with a powerful voice: yet the most modern so-called dramatic style, and the high keys, in which the parts are written, cause a speedy destruction of the voice; it becomes tremulous and untrue, and breaks down after a year or two. Once gone, even the clime of Naples cannot restore it, or, as my *maestro*, Ronconi, would say, '*Se un cantante perde la voce neppure il papa può ridargliela.*' Not even the Pope. Every fruit requires a given time for its maturity, and Milo the athlete carried the calf before he was able to carry the bull.

I believe that another cause of the decline of the art is to be found in the fact that music has become so much a matter of fashion. It is no longer cultivated as an art, but rather as a pastime. There is certainly an astonishing amount of music made in these days of ours. Everywhere one hears people sing and play the piano. Only one may not ask how? It is true enough that all occupation with art—even the mere being in contact with it—exercises a certain moral influence upon the masses; but it is as certain a fact that art itself can only lose by superficial and unrefined treatment.

I now turn to the question where the remedy against the deterioration of art is to be found. I, in the first place, encounter the principle of free trade, or the commercial principle in full action.

In a free country everyone may carry on a trade all the same, whether he understand it or not. Anyone may teach music or singing, whether he be qualified for it or not. Now I hold that if the State grants such liberty in matters of art, it has also the duty to make provision for the improvement and prosperity of that great moral agent.

It will be universally admitted, that of the civilising and refining agents at work among a people, there is none so potent, because none equally subtle and immediately appreciated, as music, and especially the art of song.

It is surely not necessary to quote authorities in support of this statement. Still it is significant to find Polybius priding himself on his countrymen, the Arcadians, having softened by music the natural roughness of their character, which was a consequence of the mountainous nature of their country and its clime.

Still more so are the words of St. Augustine: 'One feels that song softens the heart and makes pious emotions rise in it; words when sung, speech when kindled by music, lay hold of the mind more powerfully than oratory; and therefore it was that the ancient Eastern custom to sing hymns and anthems

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in churches, in order to tune the hearts to devotion, had been introduced into the Western Church also at the time of Ambrose.' Calderon says, 'Music is the antidote against all ills' (*la harmonia es antidoto á los males*). And lastly, it is perhaps the greatest recommendation when the Chinese say that the knowledge of music and of the laws of harmony is most intimately bound up with the art of governing the State, and that he who understands music well is fit also to govern well.

It is therefore the duty of the State to enlist this agency in its service, and to make provision for the appointment of superior *artistes* as professors, who know how to cultivate the voice, so that those favoured by nature may contribute to the culture of the entire nation by their public activity.

The State failing to meet this demand, I can only see a remedy in the exercise of the same freedom by way of effectual combination against the desultory and dissipating tendencies of unlimited professional licence. I hold that every large and opulent city in the land ought to have its own *conservatoire* or academy of music, and should take care to place at the head of its various branches none but tried men of real scientific culture, who have given unquestionable proof of their ability as masters, and who owe their position to merit and not to patronage.

For it is to merit that the crown is due. With regard to the art of singing, such institutions would afford to students aspiring to the office of teachers, the opportunity greatly to be desired, to which I have alluded above, for making their observations and studies, with voices of all kinds, and particularly with those of little promise. Whilst there is little risk of doing great injury to a bad voice, the incipient teacher would have the chance of proving his intelligence and artistic mode of treatment by the improvement he would effect with feeble and deficient voices.

It would be the privilege of such an art institution to give the highest training gratuitously, or at reduced terms, to young students of decided talent, if they do not possess the necessary means. If conducted on such principles, and combining strictness with liberality, such academies would, in a few years, be able to send forth really competent masters to whom the talent and taste of the rising generation might safely be intrusted. The instructions supplied by such institutions would not only be more profound, but also more universal, than that obtainable even by the best private teaching; and their influence would soon be felt, not only in the general improvement of all public

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performances, but also—*e.g.*, in the case of Edinburgh—in increasing the fame of the city as the centre of scientific and artistic education. Nor would the attractions thus held out to students from abroad, and strangers, be without material advantages for the prosperity of the place.

It is indeed most remarkable that Edinburgh, this magnificent city, not unfamiliar to my own country as the Athens of the North, should have till now been deficient in so important a feature of civilized life. Even now that the question of its introduction has been mooted by the newly founded Scottish Musical Society, I find it comparatively little understood, and by no means exciting all the interest it deserves. If I, as a foreigner and a comparative stranger, venture to advocate the cause before you, I do so, partly believing that I am not doing anything conflicting with the interests or even with the intentions of Edinburgh society, and partly because I speak in the service of art,—and may not the artist claim as his own country every country where art is loved and cherished?

Rousseau says: 'If you wish to secure general support for an idea, or to introduce an object not yet received into favour, you must seek to interest the fair sex in it.' And how much more must this be the case when the point in question concerns education?

In the name of art, then, I venture to appeal to the *ladies of Scotland*—a land in which, owing to its high civilisation, the ladies exercise a great, and, I must add, a most beneficial power—and to ask of them to set their hearts upon this, and promote the good cause with all their wonted energy. Yes, ladies, aid this enterprise by word and by action, that this project may not remain a mere project, and that Edinburgh may not only, in its fine architecture and scientific institutions, but also in its high artistic tastes, rival the ancient Athens.

Remember that even with Homer, the Muses, the genii of song, were ladies, and it was they who by their chants inspired the poet and put song into his heart. Although the times of the ancient gods are past, the ladies, as they were in rude times the nurses of gentler feeling, will ever remain the truest patronesses of art.

Scotland's songs, so deeply touching and so stirring, are the undoubted proof of the musical capacity of her people. And does not the taste for music, that fairest gift of Heaven, deserve in every way to be nursed and protected?

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DISCUSSION.

Dr. N. HEINEMANN (London) congratulated the Congress and the Art Department on having had a Paper on such an important subject. He thought the idea which was entertained by many that the English were not a musical people was a great fallacy. There were, no doubt, in Great Britain many musical elements of great beauty, strength, and vigour, which, it seemed to him, only required a certain amount of education to bring out to perfection. The question, therefore, arose, What was the kind of musical education, what the method or system, to be adopted in order to attain that end? The judicious teacher should not, in his opinion, have to shape his ideas according to pressure from outside. Every pupil should be examined by the teacher as to his or her musical abilities. He considered it a mistake to suppose that there was a necessity for every girl or boy to be musical, and why should those who had no natural aptitude be tortured by learning music; and why should other people be tortured with the performances of such a pupil? Therefore, he thought, that one principle they might lay down was that no person should be taught who was not really musical. As to vocal music, teachers of singing had very seldom thought it necessary to examine the bodily organs by which the tones were produced. He was of opinion that if nature intended a person to be a singer, nature would have been good enough to give him the organs necessary for such an end. Only of late physicians had commenced to examine the throat in reference to musical acquirements. On such examinations it was found that the throats of different persons varied in many respects. In this free country, in which the system of free trade was established in most branches of human activity, it was impossible to have such a monopoly—as suggested elsewhere—in the teaching of singing, and as it existed in some countries on the Continent, but he thought that the allowance of full freedom to private enterprise need not prevent the formation of academies where only teachers should be employed who had shown their ability to teach, and where only those pupils should be permitted to learn who had shown their ability to do so. That, he believed, was the idea which the reader of the Paper had in view when he spoke of the formation of an academy in the beautiful city of Edinburgh.

Mr. LICHTENSTEIN (Edinburgh) said the want of money was about the only barrier to the adoption of the plans suggested by Signor Bach for the establishment of musical schools. They all knew how much could be done by each other single-handed in the way of musical teaching, but if a high standard was to be maintained there was certainly a necessity for some sort of musical school. There was no doubt that during the last ten or fifteeen years great progress had been made, even in the University of Edinburgh, in regard to musical teaching. But, after all, the University did not exist for that purpose. If music was to be properly taught, it must be made a *special study*. If they went to Germany and other countries, they scarcely heard of Professors of Music in the universities. What had given musical education its great impetus on the Continent, and what was necessary to improve it *here*,

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was the establishment of a *conservatoire* or *academy*. There were, however, great difficulties in the way of the establishment of such an institution. It would not do to begin on a small scale. It must be something of a first-rate character, and it wanted something more than enthusiasm to keep it going—it wanted subscriptions from many thousands in the whole nation. Most of what he had heard from Signor Bach was perfectly true, but if there was one point on which he should be disposed to disagree with him, it would be in his general condemnation of our choral societies. There was no doubt that many persons belonged to these societies without previous high training, but if they attended some of the choral societies in London and the provinces, they would be astonished at the amount of proficiency which was shown. Had we to wait for that high attainment in every singer, we scarcely ever should hear the performance of the compositions of our greatest masters in all parts of the country, which, after all, ought to be the aim of musical instruction. Though the single vocalists might not have had an opportunity of learning under great masters, yet they sang in a musician-like manner. When he went to Germany lately, he noticed that in many parts there they did not sing as well as might have been expected. Professor Hullah, who had recently gone to Germany expecting to find a perfect musical culture in every nook and corner, had come from there much disappointed. That, of course, did not mean that in Germany and Austria there were not people who sung perfectly well; it only meant that *universal* perfection and proficiency belonged to the *pia desiderata* in all arts. Mr. Lichtenstein added that, although agreeing with most propositions of the author of the Paper, yet he thought *qui bene distinguit bene docet.*

Miss Oswald (Edinburgh) thought that in the Paper the musical education of the artist had been regarded rather than that of the middle classes. If it was desired that music should exercise over them a more general and beneficial influence, she thought it was hardly the way to attain that end by attempting to train mere musicians, but that a breadth and depth of musical culture should be sought for which she thought just now was chiefly to be found in the choral societies. She thought much might be done towards the attainment of the desired end by the establishment of cheap orchestral concerts. By that means they might bring really good music within the range of the middle classes. A system had recently been introduced into girls' schools of the lower and middle class which was not likely to prove a very good one—namely, that of having five to twenty pianos going at the same time. The piano was a noble instrument, but it did not develop the ear as did singing or the study of some other instruments where the performer produced the note. In her opinion the object in view could best be attained by means of these choral societies, which gave some true cultivation of the ear to all their members, and then, as here in Edinburgh, engaged an orchestra to assist in their concerts.

Mr. Charles Scott, Advocate (Edinburgh), said he had seen a good deal of the working classes in Scotland, and he never saw finer raw material for musical culture than was offered by these classes. He happened to be one of the first officers in the artisan companies of the

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Edinburgh Rifle Brigade on their formation, and he joined with one or two others in a guarantee for procuring musical instruments for the purpose of starting a military band. He did this with small expectation of the success of the project, but the moment it was commenced the sole difficulty lay in the great abundance of musical taste and talent. They very soon got up a splendid band, which was afterwards taken over by the regiment, and which in time became equal to many of the regular military bands of the country. He knew of many cases of workmen joining in that city for the purpose of practising music, but as to the suggestion for orchestral concerts for them, he feared that these would be found too expensive. It was no use endeavouring to reach the lower classes by this means unless they could offer very low prices. There was, he was sure, in Scotland plenty of musical material which only required cultivation.

Mr. Thomas Ivory, Advocate (Edinburgh), agreed that in Edinburgh there was plenty of good material, and added that there was also in the city the means of carrying out some of the other suggestions which had been made. They had in the Waverley Market Hall a building admirably adapted to the purposes of cheap concerts of first-class orchestral or choral music.

Mr. P. H. Rathbone (Liverpool, Hon. Sec. of the Department) said that Signor Bach had scarcely done justice to the choral societies. He should be glad if he and those who thought with him would go to the next National Eisteddfodd in Wales, and there see what had been done by the choral societies. Even among the miners he thought he would find a delicacy of feeling which would considerably surprise him. There was one point on which he must say that he considerably differed from Signor Bach. He thought they must first of all induce a taste for music before they could induce people to take the trouble to train themselves for it. For that purpose the choral societies attached to different places of worship were extremely valuable, and where there was an organ the natural centre was the organist, in whom they had a friendly master who was not dependent upon his choral society for his living. At Liverpool these societies had to a great extent been banded together under one conductor and one general organisation, with the best results. He was happy to say that in that city they had been able to induce so eminent a man as Mr. MacBrusch to come and live amongst them, and as conductor of their philharmonic concerts to take the musical leadership of the city. Since he had come amongst them the conductors of two of the other principal musical societies had laid down their *bâtons* in favour of Mr. MacBrusch. That appeared to him to be the proper way of doing it. They should have around every organist and place of worship a musical body of individuals; these should be combined under one head appointed by the town. In Edinburgh they had, no doubt, a difficulty to encounter from the fact that there were not many organs. That, however, was a difficulty which was disappearing every year, but they still wanted what every large town in England possessed, one great central organ on which the best music could be played for two or three hours every week. He hoped it would not be long before Scotland was on an equality with

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England in this respect; and that every large town, especially Edinburgh, would have its great central organ. There were very few finer instruments, and in the organ they had many of the advantages with none of the expense of a full orchestra.

The Rev. Professor MacGregor (Edinburgh) said the finest organ was the human voice, a greater musical organ than any musical instrument. If the gift of song in young people was developed and trained, they would be able to dispense with the organ. He differed entirely from those who asserted that Scotland was not a land of song. He thought the national songs should be encouraged, as they were an indication of the heart. They should promote song and do without the organ.

Dr. A. W. Potts (Fettes College) said his own experience led him to endorse nearly all the conclusions of the Paper. He should like, however, to enter a protest against the idea that music could be satisfactorily cultivated by encouraging pupils in schools to sing in unison. He believed it was injurious to the voice, inasmuch as it generally ended in a vulgar attempt to see who could make the most noise, and very often it was not that kind of noise which was the most harmonious. He should like to say a few words about the Scottish Musical Society, an organisation which he believed would prove of considerable value to that part of the country. He hoped they might now look upon it as successfully established. A large number of the most distinguished noblemen in Scotland had connected their names with it and expressed a deep interest in the movement. He thought it was a lamentable reflection that in a city like Edinburgh they should have no musical academy, or indeed nothing approaching adequate means for musical training north of Manchester and Leeds. Mr. Ruskin had said that the English were in a state of pauperism in being obliged to import their food from other countries. How significantly those words applied to music in Edinburgh. He thought it a lamentable thing that they should be obliged always to import nearly all the music they required from London. There was abundance of musical ability in Scotland, and judging from what he had seen he should say that there was quite as much music in the Scotch boy as they would find in the southern parts of England. There was, however, really no opening for its display beyond that which was supplied by church choirs. They could not expect people richly endowed by nature to give their time and their talents when there was really no opening for their display. He thought it possible that if the new society were encouraged in Scotland it might lead to something like an academy of music in which music might be successfully and effectually taught. It might be said that music was rather an amusement than an education. He differed altogether from that view. Music was the finest language extant; it spoke to the hearts of men more than any other language that he knew of. It was impossible to regard music as a mere item of education. As a nation he felt that they attached too much importance to the mere acquisition of information. They were too liable to forget that important element of education which Thomas Carlyle called 'rhythmic drill.' Music had made enormous strides in every

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direction ever since the time of Handel, but he thought if they looked at it as a mere branch of amusement and not of education, its progress would be arrested. He trusted that in Scotland some real attempt would be made to secure the commencement of a musical academy, and thus to provide a scope for that undoubted musical ability which exists in Scotland.

Mr. Barclay, R.S.A. (Edinburgh), said in his own branch of the artistic profession they relied for the formation of a cultivated taste on exhibitions. In the same way in music, concerts might be made to do a great deal. But they were too expensive for the lowest classes, and therein lay one of their difficulties. He disagreed with the reader of the paper in regard to his remarks about choral unions. These societies might not make artists, but they would certainly make musicians and bring musical tastes to the middle classes. In his native city, when he left it sixteen years ago, there were frequent concerts of good music, but owing to the expense they were only attended by the 'upper ten,' but last May when he happened to be in Perth he found that a choral union had been established under the guidance of good musicians. It was only by means of such agencies that they could find out such men as Campobello and Leli—the one an Argyllshire Campbell and the other a Perthshire Lyall. By this means also they could promote cheap concerts, and so reach the lower classes who could not afford to pay for the more expensive music.

Dr. Potts, referring to the remarks of the last speaker concerning cheap concerts, said that suggestion afforded the strongest argument that could be found in favour of the establishment of a local academy. So long as the highest vocal and instrumental musical talent had to be imported from Manchester or London, so long would the best concerts necessarily be kept beyond the reach of the lower classes. But if they had the resources of a local academy to draw upon, music might then be brought within the reach of the lower and middle classes.

Dr. Heinemann referred to the construction of the ear as indicative of a musical aptitude. He had had occasion to investigate this matter, and he had found that those whose ears lay close to their heads were not naturally musical, while people whose ears protruded from the head were generally musical people. He did not say that evidence of musical ability was to be found only in the construction of the ear, but he was deeply impressed, on the strength of many years' observation, that the constitution and construction of the ear had something to do with the musical ability of the individual.

Mr. Charles Scott thought that sufficient attention had not been paid to the observations of Professor MacGregor. The Church of Scotland had had a great effect in producing the present state of things. He thought there was more native musical culture in the Scotch girl than in one born south of the border. The Scotch girl had more sentiment and romance about her than one trained south of the border. He thought there was too great a tendency among the professional musicians of the present day to discourage the study of this native music of the Scotch.

The President (Professor Richmond), in summing up the discus-

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sion, said he wished his friend Sir Henry Oakley was in his position, for he knew nothing of music except as an amateur. There were, however, one or two points which he should like to touch upon. He thought what Signor Bach had said about children not being allowed to hear bad music contained an excellent suggestion. Children certainly ought not to be allowed to have those odious penny trumpets with which they vitiated their own ears for sound, and annoyed all with whom they came in contact. In his opinion, people did not take sufficient account of the importance of early training, and they seemed to think that it did not much matter what impressions were conveyed to the child's young ears. It appeared to him, however, that this was the most important time in the child's life. He had the pleasure the previous year of some talk with Mr. Darwin on this subject. Mr. Darwin was of opinion that the first three years of the child's life were most important. Then the child received impressions which, though at the time he might not be conscious of them, were yet impressions that were indelibly marked on his mind, so that nothing could ever eradicate them. If that was true, what Signor Bach had said must be true also. Then, in regard to what had been said as to shouting at choral societies, a curious effect of this was to be observed at this year's Handel festival. He remembered very well the first Handel festival, when it was said by musical people that every individual tried to bellow as loud as he could—there was no *cresoendo* and no *pianissimo*. But this year all the musical people with whom he had come in contact had remarked how singing in concert had improved, and how much more variety there was in the singing than was the case in 1859. This was attributed to the fact that by constant use, and by singing together, individual shouting had proved to be of no value whatever, but that by each singing in a natural way a very much better effect would be produced. With regard to teachers being singers themselves, he thought they must apply the same rule as applied to all art. That a man who taught drawing must himself be able to draw almost amounted to a truism, and they must look at this question of musical education in the same light. Very much had been said about the desirableness of having a *conservatoire*, and he should of course endorse that opinion. But the question was, How were they to get it? Such a thing would cost a great deal of money. Could it not be begun with some general system of musical education? Some one had said that only those should learn who were musical; but how were they to find out without an examination who were musical and who were not? Supposing they had a *conservatoire* in Edinburgh, a ploughman with a beautiful voice might come there and learn to sing, and he confessed that it seemed to him a great pity that there was not some institution of the kind in a great city like their own. In regard to the individuality of singing, if he knew anything about music he was a great advocate for it. He could only draw his conclusions in regard to music from his own art, and as individual teaching was so desirable in the one he could not resist the conclusion that it must be good for the other. So much more attention was paid in the one case than in the other. In a class the only desire was to get the children to sing together. Then with regard to what had been

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said about Germany. He had heard from those intimate with Professor Hullah of the latter's disappointment with the choral music and musical education of Germany, and of his statement that the choral singing in this country was so much better. He had heard the same thing said by a great many people, who had declared that the choral singing they had heard in Germany did not touch what they had heard in England. The most important suggestion of all, in his opinion, was that which had been urged by Miss Oswald—namely, the desirableness of organising cheap orchestral concerts. They must give people the opportunity of hearing good music before they could expect to make them good musicians or good performers. How they were to bring about these concerts was another matter. Mr. Rathbone had suggested choral societies connected with churches. Every church had its choir and its organist. These were the means to hand, each working with the other, stimulating the other to exertion, so that in time these forces might be accumulated, and out of them could be formed a valuable orchestral society. As to the composition of songs, he thought he might claim, without stopping to defend his country, that the English were at least equal, he would not say superior, to the Scotch in regard to their music. With regard to what had been said about cultivating local art, he cordially agreed with it all. He thought it a great mistake that they should have to send 'over the way' for everything they wanted in their house, and he thought they ought to be able to manufacture as much in their own houses as possible, and that as in these matters it was contrary to all notions of political economy to send away for what they wanted, so it was contrary to their interest to be obliged to send to London or anywhere else for their artistic talent.

Signor BACH, in reply, said he had only to say in answer to Mr. Lichtenstein that what he had said was not intended to apply to England or Scotland, or any particular country, but to have a general application. It was the same in regard to what he had said about choral unions. Of course everybody must know how to open his mouth.

DRAMATIC REFORM.[1]

IN a brief Paper on 'Dramatic Art and the Dramatic Reform Association,' Mr. J. STUART BOGG called attention to the success which had attended the endeavours of the Association in furthering the recognition and encouragement of dramatic art. Wherever a love of the beautiful existed, there also was the faculty to appreciate dramatic art. This faculty, or taste, needed cultivation. At present there were few opportunities for acquiring that knowledge and self-culture which would confer the power to discern whether a play were artistically given. So lightly esteemed were command of language and good delivery that there was no Chair of Elocution in the Universities of Oxford or Cambridge. This subject deserved

[1] See *Transactions*, 1879, p. 759; 1878, p. 738.

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attention from the South Kensington School of Science and Art. The theatrical profession would benefit if both actors and audiences could obtain with less difficulty competent knowledge of their own language, and of how it ought to be spoken. A pessimist school had deprecated the action of the Association in attempting dramatic reform; but did it follow when any form of art had sunk to a low level that no attempt should be made to reinstate it? The taste for dramatic art might be cultivated by the establishment of a national theatre, the study of the best dramatic authors, occasional afternoon performances of high-class plays, and in other ways. Through the small quarterly *Journal* of the Association, discriminating views respecting the stage had been widely circulated and kept before the public. The work thus carried on was recognised by the profession, while a spirit of toleration, which bade fair to develop into approval, was beginning to pervade religious bodies. The interchange of opinions at the Social Science Congress and at the Church Congress, also the discussions in clerical societies and at debating clubs throughout the kingdom, manifested the growth of a stronger interest in the drama. As a proof of improvement in public taste, the writer pointed to the Shakspearean revivals, and the fact that a play by Shakspeare could draw crowded audiences for two hundred and fifty nights successively. It was not desired—as some erroneously supposed—to turn the theatre into a school. Those who cultivated an acquaintance with dramatic art would thoroughly enjoy its recreative influence; on the other hand, they would not be likely to mistake gross language, indelicate situations, or thinly-disguised satire of virtue for *amusement.*

A paper on 'Dramatic Reform' was also contributed by Mr. ARTHUR G. SYMONDS, M.A., of which the following is an abstract:—Of late years we have heard a great deal about dramatic reform; and, about two years ago, a society was formed in Manchester, with the title of the Dramatic Reform Association. The term 'dramatic reform,' which is so much in vogue now, is—if not a misnomer—a very ambiguous phrase. But, as Hobbes says, 'Words are the counters of wise men, the money of fools,' and I will not quarrel with the term, especially as it is now so generally accepted in the meaning we wish it to convey—that, viz., of a reform of (or in) the drama. The word 'drama,' thus used, includes (1) the plays which are acted, (2) the stage on which, and the actors by whom, they are acted, (3) the actual representations

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of plays on the stage, (4) the dramatic art, (5) the theatre in the abstract, and (6) all of the foregoing five put together. I mention this, because this ambiguity appears to me to lie at the bottom of the difficulty on the subject, and because so many who talk glibly about 'dramatic reform,' have not the faintest conception of its difficulties, and embarrass the question by their ignorance of the subject. Whatever may be the true and proper meaning of the term, the very universality of its use implies a general desire for improvement in the dramatic representations supplied to us in modern theatres. Whether it does or does not also, and necessarily, imply a wish for improvement in the plays that are represented; the way in which they are represented; the actors and actresses who represent them; the theatres in which, and the stages on which, they are represented; the managers who bring them out; the authors who write them; the critics who criticise them; and the audiences who listen to them—perhaps, even, the audiences who don't listen to them—this is a question, the solution of which may appear in the course of this paper. Anyone who has followed with interest the manifold discussions, oral and written, which have had 'dramatic reform' for their subject, must admit that one and all of the above branches are included in the desired reform. Before sitting down to write this paper, I ran through a number of articles, letters, and reports of speeches on this subject, to see if I could hit upon some one definite scheme of dramatic reform that I could support and recommend. Here are some of the many infallible recipes I found:—(1) Reform the plays; (2) reform the players; (3) reform the managers; (4) reform the theatres; (5) reform the stages; (6) reform the stage properties—scenery, dresses, &c.; (7) reform the critics; (8) reform the Lord Chamberlain; (9) reform the audiences; (10) reform those who won't go to theatres; (11) reform society; (12) reform it (the stage) altogether. These are all given quite seriously, and are honestly meant as contributions towards the elucidation of the serious problem before us. Now, granting that all those who write and talk about 'dramatic reform' are well-meaning people, and thoroughly in earnest, we must remember that reforms of all sorts, though perhaps originated by such people, are rarely carried out by them. Mere enthusiasm is not enough; great reforms require for their consummation a practical knowledge of conditions and circumstances; and they are generally brought about in the end by a combination of persons interested in, and conditions surrounding, the question which is the subject of reform. In discussing 'dramatic reform,'

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therefore, we have to consider who are the persons interested in it, what are the conditions surrounding the drama, and how and in what sense they are to be reformed. The drama is a reflex of life generally. Plays give pictures of, or in consonance and harmony with, contemporaneous life; hence society and the stage are mutually interdependent, and from a reform that affects the latter the former cannot stand aloof. Society is a vague term, and includes a great deal; but for our purpose we may consider it as composed of audiences and non-audiences—those who go to theatres, and those who don't go; those who read plays, and those who don't read them; those who know actors and actresses, and those who don't, and won't, know them; those who 'patronise' the drama, and those who regard the doors of a theatre as 'the gates of hell.' 'The stage,' too, is a rather comprehensive term, and includes playwrights, managers, actors and actresses, theatres and their surroundings generally, plays, critics, and stage dresses, properties, and scenery. Now, the reform of the latter, as compared with the reform of the former, is a comparatively easy task. In fact, to attempt the former would be a Herculean labour, and its even approximate accomplishment would imply the millennium. It is obviously a work that must be left to the various agencies already engaged in it—religion, education, the press, and the like. No one association would be equal to it; and if one attempted it, it would have to take the title and perform the functions of an 'Association for the Universal Suppression of Vice.' Besides, if the attempt were ever made, 'who should 'scape whipping?' But though the reform of the stage is, as compared with that of society at large, a relatively easy task, it is not so absolutely, as a very slight consideration of the things and persons to be reformed will show. First, there are the managers; who will deal with them? and how will he deal with them? There are amongst managers a few who seem to be able to combine enlightened appreciation of the functions of the stage with a practical business-like temper, and their example may encourage us to believe that the task of reforming their brethren is not utterly hopeless. But I confess I have not yet seen my way to answer the plain matter-of-fact objection that most of them put forward to our entreaties to reform themselves, viz., that the management of a theatre is a commercial undertaking, and that they must meet the demand for such goods as are in request by a corresponding supply. It is disheartening to hear such a typically good manager as Mr. Hollingshead, of the Gaiety, put theatrical management on the same level as 'cheesemongering;' but,

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though he probably meant it 'sarcastic-like,' there is the obvious fact which we have to deal with, that if the public won't patronise theatrical 'Stiltons,' the manager is only wise after his kind who supplies them with theatrical 'Gruyère.' Then there are the playwrights, that *irritabile genus* who tell you that adaptations from the French pay better than original dramas, and prove their statements by irrefutable statistics. How are we to persuade these to sacrifice their pockets to our principles? When we come to the actors and actresses, we have to inquire what is meant by reform as applied to them? If their social life and conditions be referred to, the suggestion is an impertinence; for we have no more right to propose to interfere with their private life than with that of the members of any other profession. Besides, society, of which we are component parts, has much to account for, if the social life of actors and actresses be such generally as to call for especial reformative treatment. This is a delicate subject, but I believe that in a complete change of relations between society and the theatrical profession lies much hope of an improvement in matters dramatic generally. If, however, the reform of this section refers simply to the need of better education and training, then by all means let us adopt some such scheme as that of Professor Morley. 'Ingenuas didicisse fideliter artes emollit mores;' and, of all arts, the dramatic is the most worthy of the epithet 'ingenua.' I need not go through the other elements which compose 'the stage,' to show the difficulty as well as the necessity of reforming them. Critics, I fear, are 'past praying for,' though something ought to be attempted with them, for they do a deal of mischief. 'Ten censure wrong for one who writes amiss,' says Pope, and I honestly believe that much of what we complain of in the modern drama, and which we seek to reform, is due to the lack of that 'true taste' which, as the same poet says, 'Seldom is the critic's share.' As to stage dresses, properties, and scenery, much has been already done in the way of improvement, and we owe a debt of gratitude to those who—like Mr. Irving, the late Mr. Charles Calvert, the Bancrofts, the Kendals, Mr. Hare, and others—have worked hard, and I rejoice to think successfully, in this direction. But when all is said, what is the moral and the conclusion of the whole matter? Is it not this, that Dramatic Reform means improvement all round—in society as well as in managers, playwrights, actors and actresses, critics, audiences, theatres, and their surroundings? There are enormous difficulties in the way, no doubt. Let us face them; but let us do so in a practical

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spirit: let us avoid theories, especially of the gushing and sentimental type. They do more harm than good. Don't let us preach, but teach; and let us listen to the advice and follow the guidance of those who have knowledge of and practical experience in the subject. Above all, don't let us invoke the Lord Chamberlain's help. His very functions are so anomalous and absurd that his intervention always produces more ridicule than approval. Let us also combine to do the work—all of us—managers, playwrights, actors, and actresses, audiences, and, I beseech you, non-audiences too. If you, the last-named, would only believe that we are actuated by as good motives in patronising the drama as you, no doubt, are in abstaining from it, I am sure you would 'come over and help us.' You have no conception of how potent an influence for good a theatre may have. I know of an enthusiast who leased a theatre in one of the worst quarters of one of our great manufacturing towns. He managed it himself, and spent as much pains on the audience as on the stage. If a man or woman came to his theatre drunk, or behaved when there in a disorderly manner, he expelled them *vi et armis* sometimes (for he learnt boxing on purpose to enable him to do policeman's work when necessary), and forbade them to come again for a shorter or longer period, according to the nature of the offence; and many a morning did he receive such applications as this: 'Please, sir, let Bill go to theatre again; he swears he won't misbehave again if you will only let him go. He generally came home quiet after the theatre, and went to bed like a lamb. Now he spends evening in public, and gets drunk, and comes home and beats me and childer. Do let him go again, sir!' And 'Bill' would be standing outside during the colloquy, and would come in at the end, shamefaced and twirling his hat in uneasy fingers, with the remains of the black eye given to him by the manager when turning him out of the theatre, but with no malice in his heart; and, after serious but kindly talk, and warning against a repetition of his offence, the veto would be removed, Bill would go out triumphant, while his wife lingered a moment behind to thank the manager for his kindness. The theatre 'did not pay,' of course not—it was not expected to; but it did a great deal of good; and if I were rich enough, I should like to try the experiment, if only for the luxurious sense of doing good which that manager must have experienced.

Mr. Charles Rowley, Junior, also sent a short paper on 'Remedies for Staginess,' advocating a more natural system of

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acting—abandonment of the old stage traditions, which had been handed down, sometimes, as in the case of Shakespearean actors, from past centuries. He considered that the theatre must come to the best art to be helped, and that art would gain by the abolition of unnatural mannerisms. A long quotation from an accomplished living actress was given to enforce this view and show the difficulties which lie in the path of any artistic attempt at natural delineation of character; arising sometimes from subjection to stage traditions on the part of managers, sometimes from the ignorance and bad taste of audiences. Dealing with the subject of foreign plays, he said the drama could never be at its best in a country where foreign work was presented, perforce, in a second-rate literary style; and he concluded with the remark that no country could boast of a finer group of living actors than England could, and that, while we should protest against our own staginess and conventionalities, more or less stupid, we should as resolutely avoid those of France, America, or Germany.

MISCELLANEOUS.

Mr. Robert Morham, City Superintendent, Edinburgh, read a paper on 'Surveillance of Street Architecture,'[1] in which he considered the desirableness of there being vested in the local authority, or in some public body, power of control to some extent over the manner of dealing with the designs of buildings or works likely to form prominent features, or otherwise affect the amenities of towns. Without entering into the question whether we should be better without towns altogether, or whether it would be well to restrict the size of them, and leaving questions of sanitation, as usually understood, to be discussed elsewhere, there could, he said, be no doubt that it was desirable our towns should be made as beautiful and pleasant to look upon as possible. Buildings being somewhat of the nature of necessary evils, inasmuch as they shut out air and light, and obstructed the view of the landscape, ought to be made something more than mere utilitarian piles; and in the same way towns ought to be made, as far as possible, not mere congeries of buildings, but proportionate and picturesque, and such as to produce a pleasing effect. He went on to point out some instances in which the amenity of Edinburgh had been threatened, and other instances in which, probably by accident, features had been set down which

[1] See *Transactions*, 1879, p. 719; 1878, p. 644; 1876, p. 751.

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came in happily with others surrounding, showing that important improvements might sometimes be effected if such things could be controlled. Too much or misdirected control, on the other hand, especially where it took the direction of monotonous uniformity, was far from desirable; and, as an instance of this, he referred to Turin, where everything was laid down on the square, and where the effect was very insipid and uninteresting compared with the picturesque and varying beauty of Frankfort, Genoa, and old Rouen; and he deprecated the introduction of the boulevard system into the two latter cities, as being vastly inferior, in an artistic point of view, to the charming irregularity of their older portions. He then adverted to the dull monotony of the newer parts of most growing towns, where whole streets of 'tenements' were being erected, devoid of all architectural character and sadly destructive of suburban beauty; and expressed the hope that, under improved education, principles of amicable *fraternity* would eventually prevail over those of self-seeking *liberty* or impossible *equality*, the worth of good useful work might be acknowledged, and unproductive idleness and mere speculative enterprise universally treated with the contempt they deserve; and that when in this way wealth came to be more equitably divided, and the majority of even the humbler classes enabled to have houses of their own, a better prospect for good domestic architecture might begin to open up. He next alluded to the official duties of district surveyors and Dean of Guild Courts, and to the voluntary work of such bodies as the Edinburgh Cockburn Association, and pointed out that while the former have no jurisdiction in matters of taste, the latter, while dealing with matters of taste, have no statutory powers, and that in this way the successful exercise of its functions is much crippled. Assuming, however, that it were found practicable and advisable to confer powers of dealing with matters of the kind referred to, it would, for a time at least, be desirable to use great caution in exercising them, and confine attention to such practical matters as the consideration of the plans of proposed buildings with reference to their surroundings, and when possible procuring the modification of such plans, so as to harmonise better with the general aspect; acquiring old properties with a view to improvement, removing obstructions, filling up gaps, and rescuing and preserving trees, which were often unnecessarily victims of the march of so-called improvements. Among certain minor matters over which he considered it would be of advantage the authorities should have control, he referred to the subject of bill-sticking and displays of placards which, though

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superficial, are very glaring, and in most cases very unsightly disfigurements of streets and houses where they are allowed. He concluded by expressing the hope that the attention he had ventured to draw to the matter might result in some definite movement in the direction indicated.

The Rev. R. B. Drummond, of Edinburgh, read a paper on 'Sunday Laws,' the object of which, he observed, was to say a few words on behalf of the movement promoted by the Sunday Society for the opening of museums, art galleries, libraries, and gardens on Sundays. The value of these institutions as educational agencies was universally admitted, and the question therefore arose, why their advantages were withheld from our artisan class on the only day on which they had full leisure to enjoy them. Admitting that Sunday was a day set apart for religious worship, the whole of it could not be employed in that way, and it would be well if the hours not so occupied could be turned to some good account. There were thousands in all our large cities who never entered a church door; all had not the same views regarding the observance of Sunday, and if there were those who thought they could find amid the works of nature a benefit which churches could not always bestow, it was hard they should not have the liberty of acting according to their own judgment. In England, as soon as divine service was over, the public-house was opened, and, while the opportunity of culture was withheld, the means of vice and dissipation were abundantly supplied. This was not the case in Scotland, where the public-houses were closed by law; but, because there was no open disorder, it must not be assumed that there was no drunkenness, and here, too, there was need of some counter-attraction to the temptations of drink. It was an objection often made to this movement that it was but a first step towards the complete secularisation of the Sabbath; but the working-man knows very well that the hours of labour, so far from increasing, have become fewer of late years, and if employers have been compelled to give up the half of Saturday, it is not likely they would succeed in any attempt to take the whole of Sunday. And as to the additional work imposed on door-keepers and other officials, that could be met by a slight redistribution of hours. Another objection was that museums and picture-galleries, if opened on Sundays, would not be made use of to any extent sufficient to justify so serious an innovation; but in answer to this objection he would content himself with quoting a single sentence from the address of the President of the Sunday Society at its

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last annual meeting: 'The Royal Manchester Institution opened an exhibition for eleven Sundays last year, which was visited by 51,000 people, and the various libraries to which the people have access in the same city on Sundays were visited by 125,000 people last year.' These, and other similar facts which might be adduced, showed that the advantages of the movement would not be offered in vain. It might be that in Edinburgh public opinion was not yet ripe for an innovation which, it must be admitted, was inconsistent with Scottish ideas of the obligations of the Sabbath, but his own opinion was that there was a strong under-current of feeling in its favour, and that in all sections of the community it would be welcomed as a most reasonable reform. If it were not so, they might well be content to wait a little longer, persuaded that truth and right reason would eventually triumph.

A Paper 'On the Humanising and Refining Effects of Art: the Asiatic and Roman Periods,' was read by Dr. PHENÉ, F.S.A.[1] It was pointed out in this Paper that, though popular impression generally gave supremacy to pure Greek art, and considered its effect on Rome and its inhabitants as unique, yet that important schools, both of painting and sculpture, existed in Asia Minor prior to the great advance in Greek art, and that, indeed, they were the source whence Greek art was derived, and whence it drew its knowledge and refinement.

The Ionians, themselves Greek in descent, were, from their geographical position, thrown into contact with people of the most highly cultivated countries of the world—Assyrians, Egyptians, and Persians—and with their natural Greek refinement of feeling, and subtle and delicate perception of the beautiful, not only designed the most exquisitely pure order of architecture, but, as proved by the great wealth attained by their painters, and the enormous sums paid for paintings, must have been masters of that art also, which could not have been otherwise than of the highest order, as the painters had to compete with the most perfect sculptors, to whom anatomy and symmetry were elementary studies.

In addition to these physical arts, the Ionians had fashioned the mythologies of their surrounding national neighbours into subtle systems, suitable in their opinion to the highly refined culture, which was their delight and source of happiness.

Rome at this time, ignorant alike of Asia's art and mental refinement, became the conqueror of the East. Up to this period

[1] See *Transactions*, 1879, p. 781; 1878, p. 729; 1877, p. 766.

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her patricians were known by their sterling valour and pure and simple lives; and, though pagans, their devotion was of a high cast and characterised by morality.

When the wealth and art of Asia were poured into Rome her inartistic people, untutored, and unable to discern the delicacy of an art which through the human form and features endeavoured to represent the mind, saw only the outlines of nude but beautiful beings, which inflamed their imaginations and aroused their passions. And when, added to this, Asia's subtle mysteries were introduced among them—equally ignorant of higher conceptions concealed under symbolic forms and ceremonies—they received them with their externals only, which they exaggerated, and at once converted into a source of evil, beneath which ancient Rome fell hopelessly, and from which moral degradation she never recovered.

To the credit of the Romans as they were previous to this influx of luxurious effeminacy and vice, it is seen from the description by Livy that, deeply as Rome trembled under the cold-blooded and wholesale slaughter of her best citizens by the merciless Marius and cruel Sylla, it was as nothing to the feeling of horror that blanched every cheek and terrified every heart when her Senate heard suddenly of the moral defilement of the Roman youth.

It was shown that these ceremonies, though generally looked on as Greek, were in origin Asiatic, as the Greeks themselves had for a long time refused to have them introduced among them, dreading their effect through misconception, and, as was proved in the result, dreading them with only too much reason.

From these facts of history the author deduced, first, the powerful effect of art as a refiner and educator of the mind, if judiciously used and scientifically studied: secondly, that the misuse was as dangerous as the proper use was beneficial, and the consequent injury to any nation or community from the introduction of open exhibitions to the eyes of the ignorant, and even of those wanting simply in art education, where those exhibitions permit the general appearance of undraped statuary or paintings.

Art as a mentor might, and should, refine and elevate, and for this, multitudinous examples of the more graceful and endearing acts of life were at command—life as it is to-day, amongst themselves, known to and fully capable of being appreciated even by the inartistic of every civilised people.

The leaders of public taste should use their influence, not only to exclude subjects likely to excite prurient feelings from

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the higher art galleries, as was for the most part carefully done, but to prevent general exhibitions of the human form at places of amusement and resort for those who, as a rule, knew nothing of art, and who saw in them only the human figure.

Without in any way depreciating the beauty and value of classic sculpture, the author said that as we have no sympathy with the divinities of Greece, and the intention of these sculptors being now of no importance, except to the scholar and the connoisseur, they should be restricted to art schools and classical museums, as much as anatomical studies were to schools of surgery. There had, he thought, been a marked decrease in modesty since extensive exhibition of such objects at the great places of public amusement within the last twenty years.

Mr. Hamilton P. MacCarthy contributed a Paper in furtherance of one delivered at Cheltenham in 1878,[1] wherein he called attention to the small encouragement given to sculptural art in this country, either by Government or the public, both for the erection of statuary or the decoration of public buildings.

He endeavoured to show that, art having become influenced by the caprices of passing fashion, *painting* failed to fulfil its higher functions in historic and figure subjects; and the older, grander, and more important art of sculpture was utterly neglected.

He therefore suggested that copies of the best examples of ancient and modern statuary should be placed in our public parks and gardens, which would not only raise our cities in dignity and attractiveness, but would familiarise the masses to the highest standard of taste and the truest type of beauty and proportion.

He further suggested the desirableness of the appointment of a *Minister of Fine Arts*, or other responsible Government authority, empowered to prevent the incongruities in architecture frequently disfiguring the cities.

Also, that Government should be petitioned to allocate an annual subsidy for the special encouragement of the sculptor's art, which would doubtless lead to its receiving a more general patronage from public corporations, rich mercantile bodies, and the general public.

Mr. MacCarthy extolled the citizens of Edinburgh for their public spirit and appreciation of their beautiful city, in the erection of so many fine public buildings and monuments, putting to shame the metropolis and other richer cities, and

[1] See *Transactions*, 1878, p. 740.

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hoped, by the addition of fine ideal statuary, it would become a veritable *Modern Athens.*

Signor Alberto B. Bach contributed a second paper in this department on the subject of 'Vocal Sound,' in which he dwelt with the notes commonly supposed to be produced in the head and not in the chest, and with the register of the voice. In most works on the art of singing, he said, one met with the greatest vagueness in regard to the so-called register of the voice. One author said there were two, others three or four or even five registers. As each larynx had its peculiar formation, the element of the register could not be accurately defined for all voices, even though they were equal in character. In the same way, the statements with regard to the break of the voice, or passage from one register to another, were in many works most misleading. The success of the teacher in classifying the voices of his pupils must depend upon the accuracy of his ear and his experience. The voice could be called properly equalised only when each note in the voice had become soft, full, and brilliant, and when there was no difference observable in the quality of the tone. He should confine himself to the untenableness of the term 'head voice.' Sounds were produced by the regular vibration of some elastic body. The portion of the vocal organism on which the tone depended was the larynx with its vocal cords, and it was the arch above the upper teeth which most affected the sound. He had convinced himself that with equally correct intonation, the tone was more sonorous and clear the harder and more arched the mouth was. He maintained that we produced every sound in the larynx by means of the vocal cords, and that all notes sounded full and round only when we directed a well-concentrated breath right against the hard palate. The rest of the paper was devoted to proving that there were no head notes, Mr. Bach arguing that it would be well if the term 'head notes' were abandoned in singing-schools.

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APPENDICES.

APPENDIX A.[1]

REPORT OF THE COUNCIL TO THE CONCLUDING GENERAL MEETING OF MEMBERS AND ASSOCIATES.

THE Council have pleasure in reporting that the 24th Annual Congress of the Association has now been brought to a successful termination. The number of Members' tickets sold has been 247; of Associates', 535; and of Ladies', 108. Although this meeting will not compare in numbers with that held in this city in 1863, the actual work of the Departments, both as regards the Papers contributed and the discussions maintained upon them, has, upon the whole, been of more than average merit and usefulness.

The thanks of the Association are due to the President, the Right Hon. Lord Reay, for his Inaugural Address, delivered on the evening of Wednesday, the 6th October, and for the kind and unflagging interest he has displayed in the discharge of all the duties devolving upon his office.

The Association desire to acknowledge the use granted to them of the Parliament House, where the meetings of the sections of the Jurisprudence and Health Departments have been held; and of the General Assembly Hall for the gatherings of the Art Department; and to record their thanks to the Faculty of Advocates and to the Writers to Her Majesty's Signet for the accommodation given in the Libraries and Reading Rooms; to the Commissioners of Supply of Mid-Lothian for the use of the County Hall, where the meetings of the Education Department have been held; and to the Directors of the Chamber of Commerce for the use of their hall for the meetings of the Economy and Trade Department.

They would also specially accord to the authorities of the Free Church of Scotland their thanks for the use of the Free Church Assembly Hall for the delivery of the Presidential Addresses.

The Association further tender their thanks to the Rev. J. Cameron Lees, D.D., for his opening sermon in St. Giles's; to the Board of Manufactures and the Royal Scottish Academy for the joint Reception given in the National Gallery; to the Senatus of the University for a Reception Promenade in the Royal Botanic Gardens; to the Right Hon. the Lord Provost, Magistrates, and Council for the Conversazione

[1] See *ante*, p. xliv.

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in the Museum of Science and Art. They would also accord their hearty thanks to the Right Hon. the Earl of Rosebery; the Right Hon. the Earl of Rosslyn; Major-General Drummond; Messrs. A. Cowan and Sons, Professor Geikie, Mr. Sadler, Mr. David Nicolson, Mr. John Walker and Mr. James McLaren of the North British Railway, the Commissioners of Northern Lighthouses, Mr. Robert Craig, and other gentlemen, who have offered facilities for carrying out the excursions arranged by the Local Committee. To Lord Rosebery, Messrs. A. Cowan & Sons, Mr. Nicolson, the proprietors of the Waverley Hydropathic, and Mr. Craig, the Association are specially indebted for the exercise of generous hospitality; and to the Town Council, for placing at the disposal of members visiting the Edinburgh Waterworks the buildings and accommodation at Gladhouse, their thanks are also due.

The Association further tender their cordial thanks to the directors of the public institutions, and to the several firms who have thrown open their rooms or their works for the inspection of members and associates; to the proprietors of the Liberal Club for extending the privileges of their house to visitors attending the Congress; and lastly to the treasurers, local committees, and local secretaries for their zealous and hearty labours in the successful promotion of the objects of the meeting.

The Council would specially acknowledge their obligation to the press for the able reports of the proceedings throughout the meeting.

The following are the detailed reports of the proceeding of the various departments:—

I.—Jurisprudence.

International and Municipal Law Sections.

In the International and Municipal Law Sections the following were the questions specially selected for discussion:—

(1) Should the Law regarding Domicile be amended:—

(*a*) As to the ascertainment of domicile by registration or otherwise.

(*b*) As to the substitution of political nationality for domicile, where practicable;

And is it practicable and expedient that such amendments should be embodied in International Treaties?

On this question a paper was read by Mr. Westlake, Q.C., and after a discussion it was resolved that the paper should be brought to the notice of the Council of the Association.

(2) Do the Laws relating to the Property of Married Women in the United Kingdom require amendment, and if so, in what particulars?

On this question a paper, contributed by Mr. J. Boyd Kinnear, was in his absence read by the Secretary.

(3) How can the International Difficulty with regard to Trade Marks and Copyright caused by recent judgments of the Supreme Court of the United States, best be met?

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On this question a paper contributed by Mr. C. H. E. Carmichael was read by the secretary. The reading was followed by a brief discussion.

(4) Is it expedient that there should be one system of Registration of Deeds or of Titles relating to land for the United Kingdom, on the basis of the system presently in operation in Scotland, or on any other?

On this question a paper was read by Sir R. R. Torrens; and a paper contributed by Mr. R. Denny Urlin was read by the Secretary.

These papers were followed by a discussion.

(5) Is it practicable and expedient to assimilate the laws of different countries relating to bills of exchange?

On this subject a paper was read by Mr. W. D. Thorburn, and was followed by a discussion.

(6) Is it expedient that there should be one Bankruptcy Law applicable to England and Scotland on the principle of the present Scotch system?

On this subject a paper was read by Mr. R. Vary Campbell, and was followed by a discussion.

Besides the papers on the special questions, papers were contributed on the following subjects:—A Paper by Mr. Gilbert W. Child on 'Leading String Legislation'; a Paper by Mr. W. S. Daglish on 'Establishment of Courts of First Instance throughout the Country'; a Paper by Mr. John Kirkpatrick on 'Codification of the Mercantile Law'; Papers by Mr. R. A. Macfie on the following subjects: 'Improvement in the working of the Parliamentary Machine,' 'Practical views of the questions affecting Authors and Copyright,' 'Tax on Charitable Legacies,' 'Colonies and Emigration'; a Paper by Mr. Archibald Young on 'Some of the defects in the Law relating to Salmon Fisheries in Scotland, and their appropriate Remedies'; a Paper by Baron von Holtzendorff on 'The Share of the Theory of Law, and Law teaching in Codification'; a Paper by Mr. John P. Coldstream on 'The Increase of Divorce in Scotland'; a paper by Mr. James Solly, read by Mr. Lloyd, on 'Further Amendment of the Divorce Act, 20 & 21 Vict. cap. 85'; a Paper by Mr. Charles Scott on the question 'Whither is our Marriage System Drifting'; a Paper by Mrs. E. C. Wolstenholme Elmy on 'The Law of England with regard to the Property and Status of Married Women.'

Repression of Crime Section.

The following were the questions specially set down for discussion:—

I. 'What is the position of Prisoners' Aid Societies with reference to the Prisons Act of 1877, and how can these Societies be made more efficient?' Papers upon this subject were read by Mr. T. L. Murray Browne, Rev. J. W. Horsley, Captain J. E. Christie, and Mr. Walter Paterson, and a long and interesting discussion followed. The Section eventually adopted unanimously the following resolution,

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moved by Sir Rupert Kettle and seconded by Sheriff Comrie Thomson: 'That the Section is of opinion that the carrying out of several of the clauses of the Prisons Act 1877 which refer to Prisoners' Aid Societies has been found injurious; that, in particular, the policy of marks being given to prisoners merely for submitting to prison discipline without regard to other circumstances, and the aid being controlled by the number of marks, has been found to have no beneficial result; and that the provision for preventing prison chaplains and other prison officials from acting with perfect freedom in connection with discharged Prisoners' Societies has interfered prejudicially with their operations; that the Section recommend to the Council the consideration of these important questions, with the suggestion that a representation should be made in the proper quarter in favour of the repeal or amendment of the objectionable clauses, so as to leave the Societies in the same position for carrying on their benevolent work as they held prior to the passing of the said statute.'

II. 'How can the system of Police be improved in regard to the Repression and Detection of Crime?' Papers were read by Sir Rupert Kettle, Mr. T. B. Lloyd Baker, and Mr. Wm. Henderson, Chief Constable of Edinburgh. After a very full discussion the following resolution was, on the motion of Sir James Watson, seconded by David Lewis, Esq., Treasurer of Trinity Hospital, agreed to:—'That this Section recommend the Council of the Social Science Association to memorialize the Government to adopt measures to secure for Scotland a system of superannuation for the police officers of the country as a means of improving the character of the force and thereby adding to the security of the life and property of the community.

III. 'What changes are desirable in the mode of dealing with Juvenile Delinquency?' Papers dealing with this matter were read by Mr. Charles Scott, Mrs. Meredith, Captain Christie, Mr. Bone, Mr. Daglish, and Mr. Faucus. A very long discussion followed, and resulted, on the motion of Mr. Lupton, Leeds, seconded by Mr. Whitwell, Bristol, in the adoption of the following resolution:—'That, in the opinion of this Section, it is desirable that so much of the Reformatory Act as makes it necessary that a juvenile offender shall be committed to prison before being sent to a reformatory should be repealed; and that the Council be requested to take the matter into consideration, with a view to memorialise Her Majesty's Secretary of State for the Home Department accordingly.'

Besides the Papers on the special questions Papers on the following subjects were contributed: 'On the Truant School established by the London School Board,' by Mrs. Westlake; 'On the system of taking Evidence in Private in Criminal Cases,' by Sir Walter Elliot, K.C.S.I.; on 'Penal Servitude,' by Lord Norton; on 'Task Sentences,' by Mr. Alfred Hill; on 'Suggestions as to an improved treatment of Criminal Offenders,' by Mr. Thomas Biggs; and on 'Capital Punishment,' by the Rev. W. Graham.

The Section was well attended during the whole session, and the discussion of the various questions and Papers seemed to excite great interest.

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II.—Education.

The proceedings in this Department opened with the consideration of the dangers of overwork with special reference to the higher class of girls' schools and the effects of competitive examinations. Two Papers read on the medical side led to a very practical discussion on the admitted dangers of 'overwork.' The duties of parents were strongly insisted upon—as to home habits and discipline suitable to the course of studies in which their children are engaged; as to the selection of schools, and as to the exercise of due discrimination as regards the capacity and strength of their children. The educational value of play and the necessity of playgrounds, and the means of healthy physical recreation were also enforced. The growth of the system of 'competitive' examinations was severely criticised. The more general dissemination of a knowledge of the laws of health, both among parents and teachers, was recognised as one of the most important requisites for remedying the evils acknowledged.

2. The question relating to the teaching of higher subjects in elementary schools was discussed, both from the point of view of the Scottish parochial schools and from that of the English elementary schools more closely restricted to primary education. With reference to the former, cases were cited of the high standard maintained by the old class of schools, with the expression of regret that the promise of the Act of 1872 that 'the standard which now exists in the public schools shall not be lowered,' had not been fulfilled.

On the other hand, great improvement was shown in other districts, and it was moreover contended that the term 'higher subjects' should not be limited to 'Latin' and mathematics.

The connection of schools with the universities, the range of instruction which they should undertake, and the grading of different schools, were discussed, with the general recognition of the principle that the subjects taught should be determined chiefly with reference to their educational value.

3. The supervision of secondary schools by Government or local authorities was the third of the subjects chosen for special discussion. The due nature and limits of local and of central authorities respectively were critically reviewed, and the broader issue of the utility, in any way, of Government action in relation to secondary and higher education was also raised. The capacity of popularly elected bodies to exercise any beneficial control in this range was both questioned and defended with much energy.

4. The further Papers read related (1) to teachers' opportunities of training and the need of multiplying them, with some reference to the college established by the Teacher's Training and Registration Society; (2) to the teaching of sewing in schools and the use of the sewing machine. (3) A paper on educational phases and fallacies entered into a searching criticism of the ultimate educational effects of the systems of school teaching adopted in some of the chief countries of Europe and in the United States, laying much stress on the advantages

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derived from our freer life and less vigorous rule of official supervision, while admitting some points of superiority in the provision made for some branches of special instruction. Much difference of opinion was expressed regarding some of the comparisons instituted, but much useful information was drawn forth by the discussion. (4) A description of the Holloway College for Women of the Middle and Upper Middle Classes, now in course of construction at Egham Hill, Windsor, was also given to the Department. (5) The discussion of a Paper on temperance instruction in schools led to the adoption, without division, of the following resolution, viz. :—'That the Section recommend that the Council consider the desirability of bringing under the notice of our educational authorities the expediency of having introduced into our public schools lessons on temperance and kindred subjects affecting the sanitary and physiological welfare of children.' The number present was thirty. (6) Papers were also contributed on the rise and progress of the half-time system of mixed physical and mental training, and on local government from the standpoint of national education, and, lastly, on the working men's club and institute union.

The attention of the Department was also drawn to the Lyceum very successfully worked by Miss Archer in Berlin, specially for intermediate education; to technical education; and to the state of education in India.

A cordial vote of thanks to the Chairman, Lord Balfour of Burleigh, closed the proceedings.

III.—Health.

This Section commenced its labours under the presidency of John Beddoe, Esq., M.D., F.R.S., on Tuesday, October 7, when the special question, ' 'What are the best areas for Sanitary Purposes, and how far should there be a revision of the mode of electing and continuing the services of the Officers under the Public Health Acts,' was opened by Mr. Sheriff Spens, of Glasgow, in an exhaustive and masterly Paper on the subject, and was supplemented by a valuable paper written and read by Dr. Hardesty, of Galashiels, entitled, 'Some Experiences of a Provincial Medical Officer of Health.' Kenneth McLeod, Esq., also read a Paper entitled, 'On the necessity of an Amended Public Health Act for Scotland.' The subject of the above three contributions to the Section provoked an animated discussion, and resulted in the following resolution being unanimously passed in a well-attended meeting—namely: 'That this meeting strongly recommends to the Council the necessity of its considering the condition and state of the rural areas of Scotland, with a view to obtaining an amendment of the law so as to ensure their extension.'

The afternoon sitting was occupied by the consideration of a most interesting and valuable Paper, written and read by Bailie Colston, and entitled 'Five Years of an Infant's Life: how is it to be taken care of when not under Maternal Supervision?' This Paper induced an animated discussion, engaging the attention of a crowded audience for more than two and a half hours, in which both ladies and gentlemen took an active part, the majority expressing a view that it would be

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desirable to encourage the extension of the system, as illustrated by Miss Sterling's institution at Stockbridge, of encouraging day and night nurseries for aiding persons of industrious habits who are prevented by uncontrollable circumstances from giving attention to their children under five years of age.

On Friday October 8, in a crowded meeting of the Section, the special question, 'What is the best mode of amending the present Laws with reference to existing Buildings, and also of improving their Sanitary condition, so as to render them more healthy, having due regard to economical considerations,' was opened by Mr. Councillor James Gowans, chairman of the Public Health Committee, in a most able and lucid Paper, which excited a very vivid interest amongst the audience, and provoked a protracted and animated discussion. It was followed by an auxiliary Paper on the same subject by Professor Fleeming Jenkin, F.R.S., which, however, more particularly called attention to an institution with which he was prominently connected—namely, the Edinburgh Sanitary Protection Association. The general impression was that it would be very desirable that an imperial code of law in relation to public health should be enacted, applicable to the United Kingdom: compulsory in its administration, supervised by a central authority, and presided over by a minister of State having a seat in the Cabinet.

A Paper read by Mr. Chas. R. Drysdale, M.D., 'On the Vital Statistics of New Zealand,' was well discussed, and brought the day's proceedings to a conclusion.

Saturday, October 9, was occupied by several questions of practical and scientific value, causing great interest and ensuring a very large attendance. The first Paper read was one by Sir John Rose Cormack, M.D., physician to the British Hertford Hospital of Paris, and was entitled, 'Location and Administration of special and general Hospitals in which Contagious Diseases are received.' The second Paper was one of a peculiarly valuable character by Dr. Littlejohn, medical officer of health for Edinburgh, 'On the Compulsory Registration of Infectious Diseases as practised in Edinburgh.' It caused a very close, logical, and warm discussion, and resulted in the following resolution, passed unanimously in a well-attended Section—namely: 'That this Section earnestly recommends the Council of the Association to call the attention of the Local Government Board to the necessity of powers being obtained for the compulsory registration of infectious diseases over the kingdom in a manner similar to those conferred upon Edinburgh and Greenock by their local Municipal Acts.' Mrs. Johnson, of Hastings, read a Paper 'On Volunteer Work in the prevention of the spread of Infectious Diseases,' of a very useful nature, which terminated the proceedings of this day's business.

Press of time prevented the Paper of Mr. Dyce Duckworth, M.D., 'On the insufficient Use of Milk as an article of Diet,' being read, but its valuable contents will be found shortly recorded in the 'Transactions' of the Association.

On Monday October 11 this Section resumed its labours, when the special question for discussion, 'What are the means which should be

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adopted for the prevention of the Pollution of Streams, without undue interference with Industrial Operations, and for the Preservation of Pure Sources of Water Supply?' was opened by a scientific Paper on the subject, written and read by Dr. Stevenson Macadam, one of the local honorary secretaries of the Department. This Paper was followed by others on the same subject from the pens of Sir James Alexander, Major-General Scott, and Mr. John Hansen. They elicited an interesting discussion, which was carried on until late in the day, and resulted in the following resolution, which was carried unanimously:—viz., 'That it be a recommendation to the Council of the Association, that in order to preserve the purity of rivers and streams Government should provide for the appointment of duly qualified inspectors for certain portions of the country or river basins, who should have the power of taking effective measures for preventing pollution, by requiring the local authorities to take action with an appeal from such inspectors, in the case of Scotland to the Court of Session, and in England to the higher Courts: the salaries or charges of the inspectors to be defrayed, like those of inspectors under mines and factories and the Alkali Act, by Government—the purity of rivers being for the general good.'

The remainder of the sitting was occupied by the discussion of a Paper read by Dr. Drinkwater, entitled, 'On the Various Methods of stating the Results of Water Analysis for Sanitary Purposes,' in a rather thin attendance of the Section.

On Tuesday, October 12, Dr. Stevenson Macadam read a Paper on 'The Ventilation of Sewers and Drains,' which was followed by one on the same subject, written by Mr. J. C. Bromfield, and read by the Rev. Mr. Graham, of Newhaven. Mr. Convener Gowans opened the discussion, which continued with unabated vigour and animation until late in the afternoon, and resulted in the following resolution:—'That this Section begs to make a recommendation to the Council that they shall direct the attention of the Board of Supervision of Scotland to the necessity of causing an impartial inquiry to be made into the system of open air ventilation in sewers as practised in England and Scotland.'

Dr. Beddoe having been obliged to leave the Section, the chair was taken by Mr. Bailie Ure, of Glasgow, under whose presidency Dr. Phené read a Paper 'On the Planting of Trees in Towns.' Dr. Littlejohn read one written by Dr. Alfred Carpenter, entitled 'The Fogs of Great Towns, their Causes and their Cure.' And Dr. Little read one on the same subject. The three Papers provoked a very good discussion, a strong feeling being manifested that the planting of trees, the dispersion and prevention of fogs, and the maintenance of a pure atmosphere, were pressing sanitary needs, deserving energetic study and attention.

A Paper read by Mr. H. H. Collins, the hon. secretary, for the author, Mr. A Watkyns, on 'Public Latrine and Lavatory Accommodation,' terminated the business of the day.

A warm vote of thanks was passed by a well-attended Section to

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the president of the Section, Dr. Beddoe, as likewise to the local honorary secretaries, Drs. Littlejohn and Macadam.

On Wednesday, October 13, a Paper 'On Edinburgh Town Water Supply' was read by Mr. T. Ivory in a well-attended Section; a prolonged discussion took place, and resulted in the following resolution being passed—namely: 'That in Scotland the water supply of towns, from its source to its place of delivery, ought to be put under the supervision of their local permanent medical officers of health.'

The business of this Section was brought to a close by the reading of a Paper written by Dr. Norman Kerr, and entitled 'Music Halls.'

IV.—Economy and Trade.

In the Economy and Trade Section on October 7 (Thursday) Sir U. Kay-Shuttleworth took the chair at eleven o'clock. Messrs. P. P. Sellar and Melvin read their Papers on the first special subject: 'What Legislative measures are required to leave the Occupier of the Soil freer than at present to increase his Production of Food; or by what measures of his own can the Farmer best meet Foreign Competition?' There was an almost unanimous concensus of opinion in favour of the abolition of entail and strict settlement, and the securing to the tenant of all unexhausted improvements, but the methods of so doing suggested by speakers were diverse. The need of simplification and registration of transfer of land was also insisted upon. Recommendations were also made that restrictions in methods of cultivation, except for the concluding years of a tenancy, should not be inserted in leases. A strong opinion was expressed that high farming was the only method of maintaining agricultural prosperity, and that in order to secure this, scientific education, especially in chemistry, must be promoted, as is done in Aberdeenshire, where the farmers submit to a voluntary assessment to support the Agricultural College with its stations in Scotland and England.

On Friday the second special subject: 'What should be the course of Legislation with regard to Local Government and the incidence of Local Taxation?' was introduced by two Papers by Messrs. W. C. Smith and B. Fossett Lock. Great stress was laid upon the irregular character of local boundaries and the difficulties hence arising of constituting local governing authorities: the establishment of new districts larger than parishes and less than unions was advocated. The need of forming well-defined areas was dwelt upon, as also the importance of securing representative government in England for counties in place of the present irresponsible Quarter Sessions, which cannot carry out some important work because, being a nominated body, it carries less moral authority than it would if representative. The evil was dwelt upon which springs from the better class of men not taking part in the management of public business, and the responsibility which rests upon them for their tactics in this respect. It was urged that the number of the members of the governing boards should be reduced, so that individual responsibility should be increased, and therefore a higher class of men brought forward for election.

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Considerable interest was created by Mr. Bourne's Paper on 'National Insurance,' which criticised the Rev. W. L. Blackley's scheme, and called forth a valuable debate, in which Mr. Blackley vigorously defended his plan against the objections adduced against it.

On Saturday, October 9, Mr. D. Chadwick read his Paper on the third special question, 'On the best Definition of Income for the Purposes of Taxation.' An important discussion ensued, and there was a complete agreement in the statement that the general method of levying income tax is altogether unscientific. All who joined in the discussion seemed to agree in the opinion that the deduction of capital value by mineral sold, and by similar conditions, should be allowed for; but all speakers except Mr. Chadwick seemed to think it impossible to bring the income tax into harmony with any scientific definition of income. The need of careful bookkeeping by farmers was insisted upon. but as it is not customary, the present rough-and-ready method was generally approved of.

On Monday, October 11, Mr. Standfield's Paper on 'Patents' was read in the absence of the author by one of the Secretaries. The Section seemed strongly and almost unanimously in favour of a reduction of the present fees, which were considered exorbitant. The Rev. J. A. Johnston read a Paper on 'Local Option,' and the Rev. S. A. Steinthal one on the use of 'Stimulants in the Manchester Workhouses.' In the debates which arose many abuses of the present system of licensing were exposed, the Lord Provost of Glasgow stating that he knew of cases approaching very closely to bribery of the justices. A general feeling prevailed in favour of a full, free, and direct veto being given to the people on the issue of licences. Several instances were given of the striking reduction in the use of stimulants in workhouses and hospitals. Mr. Calderwood read an interesting Paper on 'The production of Mineral Oil in Scotland.' Mr. D. McLaren read a Paper on 'The Opium Traffic in India.' After a discussion the Section, which numbered thirty-six persons, adopted the following resolution with unanimity:—'That it be a recommendation to the Council to consider the propriety of petitioning Parliament to adopt means of raising the India revenue without encouraging the production or consumption of opium.'

On Tuesday, October 12, the proceedings of the Section were opened by Mr. Watherston reading his Paper, entitled, 'Is Legislation necessary for the Relief of Indian Finance by reason of the Depreciation in the Price of Silver and the fall of the Indian Rupee?' The discussion was opened by Mr. S. Williamson, M.P., who contributed a short Paper in favour of bi-metallism. The debate was ably sustained, and the chairman, in his concluding remarks, advocated the abolition of the duty upon silver plate, and expressed an opinion in favour of a voluntary in lieu of the prevailing system of compulsory hall-marking. Mr. Westgarth read his Paper on 'The recent Controversies upon Economic Method, and the proper Limits of Economic Science,' and Mr. W. D. Henderson read his 'On Examination of the received Theory of Rent.' These two Papers gave rise to a very valuable discussion on the theoretical basis of economic science. Mr. David Milne

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Home introduced the subject of 'Railway Accidents.' After some discussion the following resolution was unanimously adopted in a Section of seventeen persons:—'That the Council be recommended to print a full abstract of the Paper of Mr. Milne Home in the *Transactions*, and that they be recommended to draw the attention of Her Majesty's Government to the importance of the subject and to the recommendation of the Royal Commission on Railway Accidents presented to Parliament in February 1877.'

On the conclusion of the proceedings a very hearty vote of thanks was presented to the directors of the Chamber of Commerce for the use of their Chamber, and to Sir U. Kay-Shuttleworth, Bart., for his courtesy and ability in the chair.

V.—Art.

The meetings of this Department, under the Presidency of Professor W. B. Richmond, began on the morning of Thursday, October 7, when Professor Fleeming Jenkin read a Paper on the first special question: 'Ought there to be a School of Dramatic Art subsidised by Private Subscription or Endowment, or by the State?' He advocated the establishment of a Dramatic Society to be incorporated by Royal Charter, and to be for members of the theatrical profession what the Institute of Engineers, the Law Society, &c., are to the professions which they respectively represent. In the discussion which followed, the feeling of the Department was very strongly in favour of Professor Jenkin's proposition, and eventually a resolution was unanimously passed requesting the Council of the Association to appoint a committee to promote the establishment of such a society, if after inquiry they should deem it desirable to do so. In the afternoon two voluntary Papers on 'Dramatic Reform' and on 'Remedies for Staginess' were read, and provoked considerable discussion.

On Friday, the 8th, Mr. Hubert Herkomer, A.R.A., read a Paper on the second special question, 'How far would the Revival of the old system of "Master and Pupils" be of advantage and tend to promote the growth of Historical Art in the Country and the fitting use of Painting and Sculpture in our Public Buildings?' Mr. Herkomer considered that the revival was undesirable as tending to cramp individuality and originality in young artists, and leading them to copy the style and mannerisms of their masters. He preferred a system which, after the necessary elementary technical instruction, would leave as much room as possible for the development of individual genius. In the interesting and well-sustained discussion which followed, many different views of the subject found expression, but it appeared to be the opinion of the majority of the speakers that, in order to have a really great school, or schools, of historical art in the country, the system of master and pupils would be advantageous. Mr. E. J. Watherston read a Paper on a kindred topic, entitled 'The Essence of Art, is it Genius or Ingenuity?' and the discussion on the two Papers was taken together. A Paper on 'Surveillance by Authorities of Street Architecture' was also read, and in the short discussion which followed a strong feeling

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in favour of some steps being taken to prevent the disfigurement of our towns was expressed.

On Saturday, the 9th, the Department did not meet.

On Monday, the 11th, Signor Alberto Bach submitted a Paper on the third special question, 'How can the Musical Education of the Middle Classes be Improved?' He dealt with the details of the teaching of singing, the improvement of musical taste in choral associations, the advisability of developing the latent musical talent of the people, and the advantages to be derived from the formation of conservatoires in our principal towns and cities. A good discussion followed, the propositions contained in the Paper being generally supported by the meeting. 'Sunday Laws' was the title of the voluntary Paper which followed, in which the author advocated the opening of libraries and museums on Sunday. A very warm and lively discussion ensued, and the usual arguments on both sides of this question were forcibly urged, several ministers strongly resenting the introduction of the question at all. The number of speakers on either side was about equal, but the general opinion of the meeting appeared to be in favour of the views of the author of the Paper.

On Tuesday, the 12th, the voluntary Papers on the 'Humanising and Refining effects of Art,' on 'Sculpture,' and on 'Vocal Sound' gave rise to some discussion.

The attendance at the meetings of the Department has been good, and the discussions in most cases have been interesting and well sustained. The singular unanimity of opinion which prevailed in the meetings of the Department at Manchester has not, however, been continued at this Congress, several of the Papers having given rise to considerable controversy.

APPENDIX B.[1]

Copyright.

REPORT OF A SUB-COMMITTEE APPOINTED BY THE STANDING COMMITTEE OF THE JURISPRUDENCE DEPARTMENT, DECEMBER 3, 1880, AND ADOPTED BY THE COUNCIL ON FEBRUARY 17, 1881.

To the Standing Committee of the Jurisprudence Department.

Your Sub-Committee have met five times, and have been favoured with the assistance of Mr. Basil Field, representing the interests of artists, and of Messrs. Bolton and Mote, representing those of dramatic authors. The result of their labours has been the adoption of the following heads for a Bill, which in the matter of artistic copyright mainly agree with a memorial presented to Her Majesty's Government by the Royal Academy on the subject of the recommendations of the Royal Commissioners relating to artistic copyright, and in the rest of the subject mainly agree with the report of the Royal Commissioners, except that with regard to the duration of copyright, other than artistic,

[1] See *ante*, p. xlvi.

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your Sub-Committee have of course followed the direction given to them :—

1. That registration of copyright in works of all classes published in the United Kingdom, and in dramatic or musical works first performed in the United Kingdom though not published (but not in paintings, drawings, or sculpture, since there is nothing in them analogous to publication), should be compulsory; that is to say, as recommended by the Royal Commissioners, that a copyright owner should not be entitled to take or maintain any proceedings, or to recover any penalty in respect of his copyright, until he has registered, and that he should in no case be able to proceed after registration for acts of piracy preceding it.

2. That if owners of copyrights in paintings, drawings, or sculpture should desire to register their copyrights, for the purpose of evidencing their title or otherwise, they should have power to do so.

3. That to ensure the system of compulsory registration being properly managed and complete, and having regard to the general importance of the subject and the magnitude of the interests involved, it is desirable that registration should be effected at a Government office, to be established and maintained for that purpose in the manner recommended by the Royal Commissioners, and that a register should no longer be maintained at Stationers' Hall.

4. That in the case of books, photographs, engravings, prints, or similar works, copyright should mean the exclusive right of multiplying copies of the work protected, including, in the case of engravings, prints, or similar works, the exclusive right of multiplying copies of them by photography or any other kind of art. That in the case of lectures, if printed and published, copyright should mean the exclusive right both of multiplying copies of the lectures and of re-delivering them. That in the case of musical or dramatic works, copyright should mean the exclusive right of multiplying copies of the works protected, and that the exclusive right of performing them should be originally annexed thereto, so that the two may be secured by one and the same registration; but that after such registration the copyright and performing right in musical and dramatic works should be assignable separately.

5. That the term of copyright in all the cases defined in Clause 4, and also the term of the performing right in musical and dramatic works, should, in accordance with your resolution, be fifty years from the date of registration.

6. That in the case of paintings, drawings, or sculpture, copyright should mean the exclusive right of multiplying copies of the design of the work protected, whether in the same or any other material or kind of art, as by painting, drawing, modelling, photography, engraving, or otherwise, and whether of the same or any other dimensions.

7. That in the case of paintings, drawings, or sculpture, the term of copyright should be the life of the artist and thirty years after his death.

8. That on the sale of a painting, drawing, or piece of sculpture, or when such a work is executed on commission, the copyright in it

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should remain with the artist in the absence of a written agreement to the contrary; but that the purchaser or other owner of the work should be protected against replicas, and have an equal power with the artist or other owner of the copyright to prevent third parties copying its design in any manner which would be an infringement of such copyright. If the work, or the chief part of it, be the likeness of the purchaser, or of any person whose likeness was stipulated in the commission for the work, the consent of the purchaser or other owner of the work should be necessary for the reproduction of its design in any manner by the artist or other owner of the copyright.

9. That the present law, by which, in the case of articles in magazines, reviews, or other collective works, except encyclopædias, written and paid for on the terms that the copyright shall belong to the proprietor of the collective work, a right of separate publication reverts to the author after twenty-eight years, should be modified, three years being substituted for twenty-eight; and that during the three years the author of an article, as well as the proprietor of the collective work, should have power to take proceedings in order to repress piracy.

10. That the present law as to presentation of books to the British Museum and other libraries should remain unaltered.

11. That in the case of British subjects copyright under the Act to be passed should extend to all the British dominions, and should be enjoyed in respect of paintings, drawings, or pieces of sculpture wherever made, and in respect of works of all other classes first published or performed in any part of the British dominions, and registered either in the United Kingdom or in such other part of the British dominions as they were respectively first published or performed in, if registration should be required for copyright by the law of that part of the British dominions in which they were first published or performed.

12. That aliens, wherever resident, should be entitled to copyright in paintings, drawings, and sculpture, if they bring their works into the British dominions in order to retain or sell them there; and to copyright in works of all other classes, on satisfying the conditions expressed in Clause 11.

13. That a British author, who first publishes his work out of the British dominions, or whose play or musical composition is first performed out of those dominions, should not be prevented thereby from obtaining copyright in those dominions by subsequent publication or performance therein, together with registration where necessary as aforesaid, provided such conditions be satisfied within three years from the first publication or performance abroad.

14. That the power to search houses for piratical copies and photographs of pictures, which was proposed to be given in the Copyright Bill of 1869, should be conferred.

15. That the power to seize piratical copies and photographs of pictures being hawked about for sale, which was proposed to be given in the Copyright Bill of 1869, should be conferred.

16. That with regard to the colonial question, the recommendations contained in paragraphs 182–216 of the report of the Royal Commissioners should be carried into effect.

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17. That the licensed colonial reprints referred to in paragraph 217 of the Royal Commissioners' Report should be admitted without restriction into all parts of the British dominions.

18. That with regard to copyright in foreign works under the International Copyright Acts, the necessity for registration in this country, and for the deposit of a copy of the foreign work, imposed by the Statute 7 and 8 Vict. c. 12, should be abolished, as recommended by the Royal Commissioners.

19. That with regard to the right of translation of foreign books and plays, the necessity for registration and deposit of a copy of the work, as well as that for publication and registration of translations, whether partial or complete, imposed by the Statute 15 and 16 Vict., c. 12, should be abolished, as recommended by the Royal Commissioners.

20. That, in lieu of the present law, there should be reserved to authors and playwrights of any State with which there exists a copyright treaty a general right, during three years, of translating their books and plays, and of adapting their plays for the English stage; and that if the author or playwright exercises such right during the three years, he should have a copyright for ten years from the date of registering the translation or adaptation, together with performing right for the same period in the case of the translation or adaptation of a play.

21. That if the foreign author or playwright does not exercise the right reserved to him under the preceding clause, it should be lawful for any one to translate or adapt the book or play, and thereby to acquire copyright and performing right for ten years from the date of registering the translation or adaptation.

To prepare a Bill on copyright, embracing the whole subject and giving effect to the above heads, would be a work of great labour and expense; and your Sub-Committee are therefore unable at present to do more than to report the conclusions they have arrived at, and to recommend, through you, to the Council of the Association that it should take such steps as may seem advisable with a view to meeting the necessary cost of obtaining legislation. The Bankruptcy Bill of 1859, and the Artisans' Dwellings Bill, are instances in which the Association has defrayed or contributed to the cost of legislation; and while your Sub-Committee believe that in the present instance large pecuniary support may be found outside, they also think that the occasion is one which would justify such a contribution from the funds of the Association as it may be able to afford.

J. WESTLAKE.
J. LEYBOURN GODDARD.
WILLIAM FOOKS.

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APPENDIX C.[1]

REPORT ON THE INTERNATIONAL CONGRESS OF COMMERCE AND INDUSTRY, BRUSSELS, 6TH–11TH SEPTEMBER, 1880; WITH NOTES ON THE ITALIAN JURIDICAL CONGRESS, TURIN, OF THE SAME DATE. By C. H. E. CARMICHAEL, M.A., DELEGATE.

I have the honour herewith to submit to the Council of the Social Science Association a brief account of the proceedings of the International Congress, which I recently attended as their delegate. I must, at the outset, ask indulgence for the necessarily very imperfect and inadequate Report which is all that I can offer in the limited time at my disposal. It will be understood, I hope, that this brevity of mine bears no reference to the importance of the Congress, which, indeed, would furnish ample matter for the consideration of a sessional meeting in London, were the Council of opinion that such a course would be desirable.

Of the opening and closing meetings, which were purely formal, I need only say that the Congress was opened by the King in person, and that the key-note of the coming discussions was struck on that occasion by the Honorary President, M. Sainctelette, Minister of Public Works, and the President, M. Antoine Dansaert, President of the Syndical Union of Brussels, and Member of the Chamber of Representatives. In his concluding address M. Dansaert summed up the work which had been done, and pointed out at the same time how much yet remained for future Congresses to carry out.

In some respects the plan of proceedings at Brussels differed from that of most of our congresses, and also of most Continental congresses that I have attended. The work and the recreation were separated by a broad line of demarcation. The first week was devoted to work, the second (in which I was unable to take part) to recreation, combined of course with instruction, in the shape of excursions to numerous places of interest from an industrial, commercial, scientific, or artistic point of view. This division of the Congress into two portions, as it were, enabled the work of the Sections and of the general meetings to be continued without any break throughout the week, and I may say that the time so assigned was barely sufficient for the discussion of the subjects, although some of these were never reached. One branch of International Law, represented on the programme, and in the printed reports circulated among the members, viz. the Codification of Maritime International Law, was left over for the consideration of a future Congress, in consequence of the unavoidable absence of the author of the Report, M. Maurice Van Meenen, Advocate at the Court of Appeal, Brussels. But I must confess that I do not think any other course could well have been taken, even had M. Van Meenen been present at the appointed time. The discussions on the two great questions of Bankruptcy and Company Law were so long and so animated, both in the sectional and general meetings, that we could not possibly have taken up so large a subject as the Codification of Maritime International Law with any

[1] See *ante*, p. xlvii.

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profit. I doubted, indeed, almost till the last moment, whether Art Copyright and Industrial Property would really come on for debate And that they did come on was mainly due, I think, to the temporary fusion, for their discussion, of the two Sections interested in the kindred subjects, viz. the Sections of Commercial Law and the Industrial Arts. The discussion eventually took place under the presidency of a fused 'Bureau' of the two Sections, though practically under the guiding hand of M. Demeur, President of the Section of Commercial Law, and Reporter on the question of Art Copyright. In his Report M. Demeur had contented himself with giving a short comparative view of existing legislation on the subject, with a note of the principal modern attempts at amending that legislation. To this he had, by way of giving a basis for debate, appended a few salient points arranged as questions on which the opinion of the Section was sought. But of his own views M. Demeur had given no more than the barest hint, such as might be gathered from a close study of the way in which the questions were framed. When we came to discuss the points raised in the Report, it appeared that the President of the Section of Commercial Law was, like many of his colleagues, both in his own Section and in that of Industrial Art, a partisan of the juridical unity of Art, if I may so put it; that is to say, he would admit of no difference in the legislative treatment of artistic work, by reason of the different purposes which it may be intended to serve. I think I should also be justified in gathering from the tenor of his remarks that M. Demeur was personally in favour of perpetuity, or of some view which I should find it practically impossible to distinguish from perpetuity. On the point of the desirableness of identical legislation for Artistic and for Industrial Property, there can be no question that the Congress, as a whole, was of the same opinion as the President of the Section of Commercial Law. This, therefore, is one of the new facts which I have collected in my latest experience of Continental discussion on Art Copyright. It may be summed up in a few words:—'As there is but one art, so let there be but one law.' And that short sentence, I think, not unfairly represents the result of the Brussels Congress of Commerce and Industry on one of the subjects upon which I was personally most interested in learning its views. In order to carry out those views, it appears to me that much will have to be done in the way of converting legislatures,—a conversion not generally easy to effect. On the important question of Bankruptcy, a very elaborate Report had been prepared by M. Léon Humblet, advocate at the Court of Appeal of Liége, which formed the starting point of the debates. It would have been very interesting to compare the views of the Belgian Reporter with those of the Italian Committee on the same subject, as laid before the International Juridical Congress which was sitting contemporaneously at Turin. But at the present moment this is an impossible task for us to undertake, as the Italian Report only exists in proof, and I have not a copy of the proof in my possession. For a Sessional meeting, during the winter, it might be feasible to obtain these additional materials, and I would in such a case take measures to secure the necessary materials from the Secretary of the Turin Congress, with whom I have been, and still am,

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in correspondence. The importance which attaches to the Italian Report, and the resolutions thereon adopted, I wish to bring as clearly as possible before the Council, as I should have attended the Turin meeting had it been physically possible to combine it with the Brussels Congress. The Turin meeting, which was the second Session of the Juridical Congress of the Kingdom of Italy, took this year the additional title of 'International,' its promoters being anxious to give it an enlarged sphere of utility, and to impress an international character on its discussions. It was attended, by invitation, by the official delegates of several Continental Governments, and these all declared that the theoretical base of an international agreement on Bankruptcy Law laid down in the Report, and accepted by the Congress, might form the actual groundwork for international conventions between their respective Governments and the Kingdom of Italy. This result, I may point out, is exactly that to which M. Humblet led up in his Report, citing in confirmation of his view the words of a recent French writer, M. Max. Lecomte.[1] 'The Latin Bankruptcy Union' (to borrow an expression from the Monetary Convention) might easily, M. Lecomte had said, embrace the following powers: France, Belgium, the Netherlands, the whole or a part of Switzerland, Greece, Roumania, Italy, Spain, and Portugal. That this is no mere Utopian vision may be understood from the fact which I am enabled to state, on the authority of a letter from the Secretary of the Organising Committee of the Italian Juridical Congress, now before me, that the conclusions of the Report of their Committee on Bankruptcy were accepted by the official delegates of France, Holland, Greece, Roumania, and Russia.

It would seem, therefore, that international agreements on the questions connected with bankruptcy may be looked for at no distant date. I think it probable, however, that wider divergences of opinion on details manifested themselves at Brussels than at Turin. At Brussels we had three parties, whom I would respectively classify as the Reformers, the Revisionists, and the Abolitionists, or Nihilists, the first and the last being the most extreme. The Reporter, M. Humblet, I should class as a Revisionist. The Belgian discussions took for their basis the existing Belgian legislation on Bankruptcy, and it is to that we must apply the terms by which I have designated the different views of the members of the Brussels Congress, the question primarily at issue being whether the existing law should be 'reformed'—or rather, as I understand, revolutionised—or 'revised,' which was the mildest treatment suggested, or 'abolished.' This last view was enunciated in the boldest and most pointed terms possible by a member, who said that if he were a legislator he would bring forward a Bill consisting of one only clause, 'La Faillite est abolie.' After this, it is difficult to see that much would remain to be said were that view to prevail, so far as I can profess to understand the wishes of the party whose formula I have just recorded; what they desire is the entire abolition of any special bankruptcy legislation. They would, therefore, I conceive, necessarily oppose any international conventions such as the Turin

[1] *Etude Comparée des principales législations en matière de Faillite.* Paris: Durand et Pedone Lauriel. 1879.

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Congress had shown to be possible.[1] If I have rightly apprehended the views of this school, I can only, for my part, set them down as obstructionist in fact, though probably not in intention. I have been obliged to stray a little, in appearance, from the direct path in the remarks to which I have been led on the subject of Bankruptcy, but in justice to the two Congresses which had been discussing it, I felt I could not do otherwise. I should like to give more space than can possibly be afforded in the present Report to the long and keenly discussed questions of the legislation on 'Sociétés Anonymes.' The Reporter on this branch of Commercial Law, M. Edmond Frédérix, a civil engineer, made some suggestions which appear to me to have considerable value for our own country as well as for Belgium. M. Frédérix would lay down a legal minimum capital for societies 'en commandite par actions,' as well as for 'sociétés anonymes.' He would not allow shares to be open to public subscription until the promoters of the company should have paid up a certain percentage of the entire capital, graduated according to the gross total. His lowest percentage (10 per cent.) is on the largest total capital, viz. exceeding ten millions (francs); his highest percentage (30 per cent.) is on companies with a capital of from 500,000 francs to 2,000,000 francs. He would forbid the taking up of shares by the public, above par, for three years after the formation of the company. In the case of an increase of the company's capital, he would only authorise it at par. He would forbid the issue of preference shares, and only allow the existence of two classes, viz. shares and obligations, the former giving a participation alike in risks and successes; the latter bearing an assured interest, without participation in risks or successes. He would have a council of administration, of which the directors should *not* be members, besides a council of surveillance distinct from the former, in the nomination of which the council of administration should have no voice. The holders of obligations should have the right, when the capital consists partly in shares and partly in obligations, to name special commissioners to guard their interests. The shares should be nominative, the society only, 'anonyme.' A college of inspectors should be created, charged with making quarterly examinations, *without notice*, of the financial position of the company. The penal sanctions of the new legislation should be, according to circumstances, those laid down for swindling (*escroquerie*), and breach of trust (*abus de confiance*). False balance sheets and statements of

[1] In the absence of the official report of the Brussels Congress of Commerce and Industry, which is not yet published, I may perhaps usefully cite from a very ably conducted Brussels paper, the *Echo du Parlement* for September 12, 1880, the resolution on Bankruptcy legislation passed by the Section of Commercial Law during its sitting of September 11. It was moved by M. de Seigneux, delegate of the Helvetic Confederation, in modification of a formula proposed by M. Lecomte, Professor of Commercial Law, Amiens, that 'It is necessary to regulate by an international convention the conflict of laws which may arise on proof being made of the stoppage of payments.' To this M. Soulas, President of the Tribunal of Commerce of Nismes, carried a rider, that '*Exequatur* should be granted without revision on the merits, by diplomatic convention, under the restrictions provided by the legislation of Italy.' On the whole, it will be seen that the Brussels and Turin Congresses, so far as their resolutions are as yet before us, agreed in principle on the international aspect of Bankruptcy law.

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assets (*inventaires*) should be punished as forgery (*faux en écriture privée*). I have thought that this brief outline of the recommendations of the Brussels Reporter on 'sociétés anonymes' would not be without interest in a country where companies of every kind, good, bad, and indifferent, so greatly abound. Into the discussions which were based on the Report I have not space now to enter. It may suffice to say that throughout the debates the object of the Congress, as of its Reporter, was to protect the interests of the public, to place the general weal above the particular. Of the many interesting questions which occupied the Sections of Political Economy, Industrial Art, and Science, I cannot here speak Nevertheless, I trust that enough may have been said to satisfy our Council that I did not waste the time which I spent at the International Congress of Commerce and Industry, and that the proceedings of that Congress are well worth the most serious consideration on the part of the Social Science Association.

APPENDIX D.[1]

Transactions of Annual Meetings.

In order to facilitate the arrangements for an early issue of the Annual Volumes, the Council adopted, at their meeting on October 6 last, the following regulations:—

I. That prior to each Congress the following documents should be in type, and the proofs ready for the meeting:—

(*a*) The Address of the President of the Association; the Addresses of the Presidents of Departments; and the Address of the President of the Council.

(*b*) The papers to be read on the Special Questions for Discussion. [The authors of the above should be entitled to receive, prior to the meeting, not more than two revises, the last of which shall be the form in which the Address, or Paper, shall appear in the Volume of *Transactions*.]

(*c*) The general practice of the Association being not to print in full papers other than those on the Special Questions, authors of other papers should be requested to supply concise abstracts, these abstracts, subject to such alterations as the Secretaries of each Department may deem advisable, to be in type for the use of the members attending the Congress, and for ultimate insertion in the Volume of *Transactions*.

II. As soon after the Congress as practicable a *copy* of the shorthand writer's notes shall, at the discretion of the editors, be forwarded to each speaker for his consideration, and amendment if necessary, subject to the proviso that the observations shall not be lengthened; and if not returned within one week the editors shall assume that no material alterations are desired.

[1] See *ante*, p. xlvii.

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